THE BOMBAY PROHIBITION ACT, 1949.

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SCHEDULE I.

SCHEDULE II.

BOMBAY ACT No. XXV OF 1949.[1]

[THE BOMBAY PROHIBITION ACT, 1949.]

[*20th May 1949*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950.
,, ,, ,, 26 of 1952.
,, ,, ,, 18 of 1953.
,, ,, ,, 67 of 1953.
,, ,, ,, 21 of 1954.
,, ,, ,, 36 of 1954.
,, ,, ,, 64 of 1954.
,, ,, ,, 20 of 1955.

An Act to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition and also the Abkari law in the Province of Bombay.

WHEREAS it is expedient to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition ; and whereas it is also necessary to amend and consolidate the Abkari law in the Province of Bombay for the said purpose and to provide for certain other purposes hereinafter appearing ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be cited as the Bombay Prohibition Act, 1949.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force on such date as the [3][State] Government may, by notification in the *Official Gazette*, specify.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " authorization " means an authorization granted under section 45 for the use of liquor for sacramental purposes ;

(*2*) " to bottle ", with its various grammatical variations, means to transfer any article from a cask or other vessel to a bottle, jar, flask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not ; bottling includes re-bottling ;

(*3*) " coasting steamer licence " means a licence granted under section 37 ;

(*4*) " Collector " means a Collector of land revenue or any person appointed to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act ;

[4][(*5*) " Director " means an officer appointed as the Director of Excise and Prohibition under section 3 ;]

(*6*) " committee " means any of the committees appointed by the [3][State] Government under section 7 ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 655.
[2] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word " Provincial ", *ibid.*
[4] Clause (5) was substituted for the original by Bom. 28 of 1950, Sch.

(*7*)"common drinking house " means a place where the drinking of liquor or consumption of any intoxicating drug is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care or management or control of such place whether by way of charge for the use of the place or for drinking facilities provided, or otherwise howsoever and includes the premises of a club or any other place which is habitually used for the purpose of drinking liquor or consuming any intoxicating drug by more than one person without a licence granted under this Act ;

(*8*) " country liquor " includes all liquor produced or manufactured in India ;

(*9*) " cultivation " includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed ;

(*10*) " denatured " means subjected to a process prescribed for the purpose of rendering unfit for human consumption ;

[1][(*10a*) " denatured spirituous preparation " means any preparation made with denatured spirit or alcohol and includes lacquers, French polish, and varnish prepared out of such spirit or alcohol ;]

(*11*) " dining car licence " means a licence granted under section 37 ;

(*12*) " to drink " with its grammatical variations, means to drink liquor or to consume any intoxicating drug ;

(*13*) " excisable article " means—

(*a*) any alcoholic liquor for human consumption.

(*b*) an intoxicating drug,

(*c*) opium,

(*d*) any medicinal or toilet preparation containing alcohol,

(*e*) other narcotic drugs, narcotics and non-narcotic drugs which the [2][State] Government may, by notification in the *Official Gazette*, declare to be an excisable article ;

(*14*) " excise duty " and " countervailing duty " means such excise duty or countervailing duty, as the case may be, as is mentioned in [3][entry 51 in list II in the Seventh Schedule to the Constitution] ;

(*15*) " excise revenue " means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law) or confiscation or forfeiture imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to intoxicants ;

(*16*) " export " (except in section 147) means to take out of the [4][State] otherwise than across a customs frontier [5]* * * * ;

(*17*) " foreign liquor " includes all liquor brought into India by sea, air or land :

Provided that the [2][State] Government may, by notification in the *Official Gazette*, declare that any specified description of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor ;

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[1] Clause (*10a*) was inserted by Bom. 36 of 1954, s. 2.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This portion was substituted for the portion " Item 40 in List II in the Seventh Schedule to the Government of India Act, 1935 ", *ibid.*

[4] This word was substituted for the word" Province " , *ibid.*

[5] The words " as defined by the Dominion Government " were deleted by Bom. 26 of 1952, s. 2(*1*).

(*18*) "hemp" means any variety of the Indian hemp plant from which intoxicating drugs can be produced;

(*19*) "hotel licence" means a licence granted under section 35;

(*20*) "import" (except in section 147) means to bring into the [1][State] otherwise than across a customs frontier [2]* * * * *;

(*21*) "interim permit" means a permit granted under section 47;

(*22*) "intoxicant" means any liquor, intoxicating drug, opium or any other substance which the [3][State] Government may, by notification in the *Official Gazette*, declare to be an intoxicant;

(*23*) "intoxicating drugs" means—

(*a*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (Cannabis Sativa L.) including all forms known as bhang, *sidhi* or *ganja*;

(*b*) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

(*c*) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared therefrom; [4]*

[5][(*d*) any other intoxicating or narcotic drug or substance together with every preparation or admixture of the same which the State Government may by notification in the *Official Gazette* declare to be an intoxicating drug for the purposes of the Act, such drug, substance, preparation or admixture not being opium, cocaum leaf or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930;]

II of 1930.

[1] This word was substituted for the word "Province", by the Adaptation of Laws Order, 1953.
[2] The words "as defined by the Dominion Government" were dated by Bom. 26 of 1952, s. 2(*1*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] The word "and" was deleted, by Bom. 26 of 1952, s. 2 (*2*).
[5] Clause (*d*) was substituted for the original clause with the proviso, *ibid.*

(*24*) "liquor" includes—

(*a*) spirits of wine, [1][denatured spirits] wine, beer, toddy and all liquids consisting of or containing alcohol ; and

(*b*) any other intoxicating substance which the [2][State] Government may, by notification in the *Official Gazette*, declare to be liquor for the purposes of this Act ;

(*25*) "manufacture" includes—

(*a*) every process whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also redistillation and every process for the rectification of liquor, but does not include flavouring, blending or colouring of liquor or intoxicating drug lawfully possessed for private consumption ; and

(*b*) every process of producing and drawing of toddy from trees ;

(*26*) "Medical Board" means a board constituted under section 8 ;

(*27*) "mhowra flower" does not include the berry or seed of the mhowra tree ;

(*28*) "molasses" means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented, and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup ; but does not include any article which the [2][State] Government may, by notification in the *Official Gazette*, declare not to be molasses, for the purposes of this Act ;

(*29*) "Officer in charge of a Police Station" includes—

Bom. IV of 1902. V of 1898.

(*a*) in the Greater Bombay, the officer in charge of a police section as provided under the provisions of the City of Bombay Police Act, 1902, and

(*b*) elsewhere the officer in charge of a police station as defined in the Code of Criminal Procedure, 1898 ;

(*30*) "opium" means—

(*a*) the capsules of the poppy (Papaver Somniforum L) ;

(*b*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport ; and

(*c*) any mixture with or without neutral materials of any of the above forms of opium ;

but does not include any preparations containing not more than 0·2 per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930 ;

II of 1930

(*31*) "passenger ship licence" means a licence granted under section 38 ;

(*32*) "permit" means a permit granted under [3][the provisions of this Act] and the expression "permit holder" shall be construed accordingly ;

Bom. IV of 1902. V of 1898.

(*33*) "police station" means in the Greater Bombay a police section as provided under the provisions of the City of Bombay Police Act, 1902, and elsewhere any place declared to be a police station for the purposes of the Code of Criminal Procedure, 1898 ;

(*34*) "prescribed" means prescribed by the rules, orders or regulations under this Act ;

(*35*) "Prohibition officer" includes the [4][Director], Collector or any officer or person appointed to exercise any of the powers or to perform any of the duties and functions under the provisions of this Act and also includes any member of a committee or the Medical Board ;

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[1] These words were substituted for the words "methylated spirits" by Bom. 26 of 1952, s. 2(2).

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words and figures "section 40, 41, 46 or 47" by Bom. 26 of 1952 s. 2(4).

[4] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

(*36*) "[1][State]" means the [1][State] of Bombay including the space within the limits of its territorial waters ;

(*37*) " rectification " includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith ;

(*38*) " Registered Medical Officer " means—

(*a*) a medical practitioner registered under the Bombay Medical Act, 1912, or

(*b*) a medical practitioner registered or entered on the list under the Bombay Medical Practitioners' Act, 1938 ; Bom. VI of 1912. Bom. XXVI of 1938.

(*39*) " regulations " means regulations made under this Act ;

(*40*) " rules " means rules made under this Act ;

(*41*) " sell " with its grammatical variations includes—

(*a*) any transfer whether such transfer is for any consideration or not,

(*b*) any supply or distribution for mutual accommodation, and

(*c*) any supply by a club to its members on payment of price or of any fees or subscription, but does not include selling of opium for export across the customs frontier [2] * * * * ;

The word " buy " with its grammatical variations shall be construed accordingly ;

(*42*) " special import licence " means a licence granted under section 36 ;

(*43*) " spirit " means any liquor containing alcohol and obtained by distillation (whether it is denatured or not) ;

(*44*) " sweet toddy or nira or neera " means unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree into receptacles treated in the prescribed manner so as to prevent fermentation ;

(*45*) " territorial waters " with reference to the [1][State] means any part of the open sea within one marine league of the coast measured from the low water mark ;

(*46*) " toddy " means fermented or unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree and includes sweet toddy or nira or neera ;

(*47*) " to tap " means to prepare any part of a tree, or to use any means, for the purpose of causing juice to exude from the tree ;

[3][(*47-A*) ' tourist ' means a person who is not a citizen of India and who is either born or brought up or domiciled in any country outside India, but who visits India on a tour for a temporary period ;

(*47-B*) ' tourist's permit ' means a permit granted under section 46-A ;]

(*48*) " trade and import licence " means a licence granted under section 33 ;

(*49*) " transport " means to move from one place to another within the [1][State] ;

(*50*) " vendor's licence " means a licence granted under section 34 ;

(*51*) " visitor's permit " means a permit granted under section 46.

CHAPTER II.

ESTABLISHMENT.

[5][Director of Excise and Prohibition.]

3. The [4][State] Government may, by notification in the *Official Gazette*, appoint an officer to be called the [5][Director of Excise and Prohibition], who, subject to the control of the [4][State] Government and subject to such general or special orders as the [4][State] Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or unde the provisions of this Act and shall superintend the administration and carry out generally the provisions of this Act :

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[1] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[2] The words " as deemed by the Dominion Government " were deleted by Bom. 26 of 1952, s. 2(*1*).

[3] These clauses were inserted by Bom. 20 of 1955, s. 2.

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] These words were substituted for the words " Prohibition Commissioner " by Bom. 28 of 1950, Schedule.

[1][Provided that the person appointed as and holding office of the Prohibition Commissioner immediately before the date on which the Bombay Commissioners (Abolition of Offices) Act, 1950, comes into force shall be the Director of Excise and Prohibition and shall hold the Office of the Director of Excise and Prohibition until the State Government directs otherwise.]

Bom. XXVIII of 1950.

Bom. V of 1879.

4. (*1*) The Collectors shall, within the limits of their jurisdiction for which they are appointed as Collectors under the Bombay Land Revenue Code, 1879, exercise such powers and perform such duties and functions as are provided by or under the provisions of this Act. Collectors.

(*2*) For the purposes of this Act all Collectors including the Collector of Bombay shall be subordinate to the [2][Director].

(*3*) The [3][State] Government may, by notification in the *Official Gazette*, appoint any person other than the Collector of land revenue to exercise in any district or place all the powers and perform all the duties and functions as are assigned by or under this Act to a Collector subject to such control, if any, in addition to that of the [2][Director] and of the [3][State] Government, as the [3][State] Government may from time to time direct.

5. To aid the [2][Director] and the Collectors in carrying out the provisions of this Act, the [3][State] Government may appoint such subordinate officers, with such designations and assign to them such powers, duties and functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Subordinate officers.

6. (*1*) The [3][State] Government may invest any officer of the Police department or any officer of any other department either personally or in right of his office with such powers, impose upon him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary and any such officers shall, thereupon, exercise the said powers, discharge the said duties and perform the said functions in addition to the powers, duties and functions incidental to his principal office. Investigating officers of other departments with powers and duties under this Act.

(*2*) The [3][State] Government may also invest any person working in an honorary capacity or otherwise with such powers, impose on him such duties and direct him to perform such functions under this Act, rules, or regulations or orders made thereunder, as may be deemed necessary. Such persons may be given such designations as the [3][State] Government may deem fit.

[4][**6A.** [5][(*1*) For the purpose of determining whether — Board of Experts.

(*a*) any medicinal or toilet preparation containing alcohol, or

(*b*) any antiseptic preparation or solution containing alcohol, or

(*c*) any flavouring extract, essence or syrup containing alcohol,

is or is not an article unfit for use as intoxicating liquor, the State Government shall constitute a Board of Experts.]

(*2*) The Board of Experts constituted under sub-section (*1*) shall consist of such members, not less than three in number, with such qualifications as may be prescribed. The members so appointed shall hold office during the pleasure of the State Government.

(*3*) Two members shall form a quorum for the disposal of the business of the Board.

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[1] This proviso was substituted for the original by Bom. 28 of 1950, Sch.
[2] This word was substituted for the word "Commissioner", *ibid.*
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] Section 6A was inserted by Bom. 26 of 1952, s. 3.
[5] Sub-section (*1*) was substituted for the original by Bom. 36 of 1954, s. 3(*i*).

(*4*) Any vacancy of the member of the Board shall be filled in as early as practicable :

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

(*5*) The procedure regarding the work of the Board shall be such as may be prescribed.

(*6*) It shall be the duty of the Board, to advise the State Government on the question [1][whether any article mentioned in sub-section (*1*)] containing alcohol is unfit for use as intoxicating liquor and on such other matters incidental to the said question as may be referred to it by the State Government. On obtaining such advice the State Government shall determine whether any [2][such article] is fit or unfit for use as intoxicating liquor or not and [2][such article] shall be presumed accordingly to be fit or unfit for use as intoxicating liquor, until the contrary is proved.]

Committees.

7. (*1*) The [3][State] Government may appoint committees to advise and assist officers in carrying out the provisions of this Act.

(*2*) Such committees shall perform such functions as are provided by or under the provisions of this Act.

(*3*) The constitution of such committees and the procedure regarding their work shall be as may be prescribed.

(*4*) The [3][State] Government may direct that the members of such committees shall be paid such fees and allowances as may be prescribed.

Medical Boards.

8. (*1*) The [3][State] Government may constitute one or more medical boards for such areas and consisting of such members as it may deem fit.

(*2*) A medical board so constituted shall perform such functions as are provided by or under this Act.

(*3*) The procedure regarding the work of the medical board shall be as may be prescribed.

(*4*) The members of the medical board shall be entitled to such fees and allowances as may be prescribed.

Control of [4][Director] over Prohibition Officers and other officers.

9. In exercise of their powers and in discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder, all Prohibition Officers and all officers including the officers of the Police and other departments shall, subject to the general or special orders of the [3][State] Government be subordinate to and under the control of the [4][Director] and shall be bound to follow such orders as the [4][Director] may, from time to time, make.

Delegation.

10. (*1*) The [3][State] Government may delegate any of the powers exercisable by it under this Act to the [4][Director] or such other officer as it deems fit.

(*2*) Subject to the control and direction of the [3][State] Government the powers conferred on the [4][Director] or any other officer appointed or invested with powers under this Act may be delegtaed by him to any of his subordinates.

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[1] This was substituted for the original by Bom. 36 of 1954, s. 3 (*ii*) (*a*).
[2] These words were substituted for the words "such preparation" *ibid*, s. 3 (*ii*) (*b*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950,
[4] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

CHAPTER III.

PROHIBITIONS.

Manufacture, etc., of intoxicant to be permitted in accordance with provisions of Act, rules, etc.

11. Notwithstanding anything contained in the following provisions of this Chapter, it shall be lawful to import, export, transport, manufacture, sell, buy, possess, use or consume any intoxicant or hemp [1][or to cultivate or collect hemp] or to tap any toddy producing tree or permit such tree to be tapped or to draw toddy from such tree or permit toddy to be drawn therefrom in the manner and to the extent provided by the provisions of this Act [2][or] any rules, regulations or orders made or in accordance with the terms and conditions of a licence, permit pass or authorization granted thereunder.

Prohibition of manufacture of liquor and construction and working of distillery or brewery.

12. No person shall—
(*a*) manufacture liquor ;
(*b*) construct or work any distillery or brewery ;
(*c*) import, export, transport or possess liquor ; or
(*d*) sell or buy liquor.

Prohibition of sale, etc., of liquor.

13. No person shall—
(*a*) bottle any liquor for sale ;
(*b*) consume or use liquor ; or
(*c*) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any liquor.

Prohibition of export, import, transport, sale, manufacture, etc. of intoxicating drugs.

14. No person shall—
(*a*) export, import, transport or possess any intoxicating drug ;
(*b*) cultivate or collect the hemp or extract any portion of such plant from which any intoxicating drug can be manufactured ;
(*c*) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any intoxicating drug ;
(*d*) sell or buy any intoxicating drug ;
(*e*) consume or use any intoxicating drug ; or
(*f*) manufacture any intoxicating drug.

Prohibitic of import, export, transport, sale, etc., of sweet toddy.

15. No person shall—
(*a*) import, export, transport or possess sweet toddy or nira ;
(*b*) bottle sweet toddy or nira for sale ; or
(*c*) sell or buy sweet toddy or nira.

Prohibition of tapping of toddy producing trees and drawing of toddy.

16. No person shall—
(*a*) tap any toddy producing tree or permit to be tapped any toddy producing tree belonging to him or in his possession ; or
(*b*) draw toddy from any tree or permit toddy to be drawn from any tree belonging to him or in his possession.

Prohibition of possession, etc., of opium.

17. No person shall—
(*a*) possess opium ;
(*b*) transport opium ;
(*c*) import or export opium ;
(*d*) sell or buy opium ; or
(*e*) consume or use opium.

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[1] These words were inserted by Bom. 26 of 1952, *s.* 4(*1*).
[2] This word was inserted, *ibid.*, *s.* 4 (*2*).

Prohibition of sale to children.

18. No licensed vendor and no person in the employ of such licensed vendor or acting with the express or implied permission of such licensed vendor on his behalf shall sell or deliver any intoxicant to any person apparently under the age of twenty-one years, whether for consumption by such person or by other person and whether for consumption on or off the premises of such licensed vendor.

Prohibition of sale of toddy.

19. No owner of any toddy producing tree, and no person having a right to the juice of such tree, and no drawer of toddy, shall sell toddy and no person transporting or removing toddy under a pass granted under this Act shall sell the same except—

(*a*) under a licence granted under this Act ; or

(*b*) to a person licensed to manufacture or sell liquor under this Act.

Prohibition of production, etc., of charas.

20. No person shall—

(*a*) produce,
(*b*) manufacture,
(*c*) possess,
(*d*) export,
(*e*) import,
(*f*) transport,
(*g*) buy,
(*h*) sell,
(*i*) consume, or
(*j*) use

charas.

Alteration of denatured spirit.

21. No person shall—

(*a*) alter or attempt to alter any denatured spirit by dilution with water or by any method whatsoever, with the intention that such spirit may be used for human consumption, whether as a beverage or internally as a medicine or in any other way whatsoever ; or

(*b*) have in his possession any denatured spirit in respect of which he knows or has reason to believe that such alteration or attempt has been made.

Alteration of denatured spirituous preparation.

[1][**21A.** No person shall—

(*a*) alter or attempt to alter any denatured spirituous preparation by dilution with water or by any method whatsoever, with the intention that such preparation may be used for human consumption as an intoxicating liquor ; or

(*b*) have in his possession any denatured spirituous preparation in respect of which he knows or has reason to believe that such alteration or attempt has been made.]

Prohibition of allowing any premises to be used as common drinking house.

22. No person shall—

(*a*) open or keep or use any place as a common drinking house ; or

(*b*) have the care, management or control of, or in any manner assist in conducting the business of, any place opened, or kept or used as a common drinking house.

[4][Prohibition of soliciting use of intoxicant or hemp or doing any act calculated to incite or encourage member of public to commit offence.]

23. No person shall—

(*a*) [2]* solicit the use of, [3][or] offer, any intoxicant or hemp ; or

[4]* * * * * *

(*c*) do any act which is calculated to incite or encourage any member of the public or a class of individuals or the public generally to commit any offence under this Act or to commit a breach of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

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[1] Section 21A was inserted by Bom. 36 of 1954, s. 4.
[2] The word "commend," was deleted by Bom. 26 of 1952, s. 5 (1).
[3] This word was inserted, *ibid.*
[4] Clause (*b*) was deleted, *ibid.*, s. 5 (2).
[5] This marginal note was substituted for the original, *ibid.*, s. 5 (3).

Prohibition of publication of advertisements relating to intoxicant, etc.

24. (*1*) No person shall print or publish in any newspaper, news-sheet, book, leaflet, booklet or any other single or periodical publication or otherwise display or distribute any advertisement or other matter,—

(*a*) which [1]* solicits the use of or offers any intoxicant or hemp ;

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

(*2*) Save as otherwise provided in sub-section (*3*), nothing in this section shall apply to :

(*a*) catalogues or price lists which may be generally or specially approved by the [2][Director] in this behalf ;

(*b*) any advertisement or other matter contained in any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the [3][State] ;

(*c*) any advertisement or other matter contained in any newspaper printed and published in the [3][State] before such date as the [4][State] Government may, by notification in the *Official Gazette*, specify ; and

(*d*) any other advertisement or matter which the [4][State] Government may, by notification in the *Official Gazette*, generally or specially exempt from the operation of this section.

(*3*) Notwithstanding anything contained in sub-section (*2*), the [4][State] Government may, by notification in the *Official Gazette*, prohibit within the [3][State] the circulation, distribution or sale of any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the [3][State] which contains any advertisement or matter,—

(*a*) which [1]* solicits the use of or offers any intoxicant or hemp ; or

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of any licence, permit, pass or authorization granted thereunder.

This Chapter not to apply to [8][certain articles].

[5][**24A.** Nothing in this Chapter shall be deemed to apply to—

(*1*) any toilet preparation containing alcohol which is unfit for use as intoxicating liquor ;

(*2*) any medicinal preparation containing alcohol which is unfit for use as intoxicating liquor :

[6][(*3*) any antiseptic preparation or solution containing alcohol which is unfit for use as intoxicating liquor ;

(*4*) any flavouring extract, essence or syrup containing alcohol which is unfit for use as intoxicating liquor ;] :

Provided that [7][such article] corresponds with the description and limitations mentioned in section 59A :

Provided further that the purchase, possession or use of any liquor or alcohol for the manufacture of any [7][such article] shall not be made or had except under a licence granted under section 31A.]

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[1] The word "commends," was deleted by Bom. 26 of 1952, s. 6.
[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Schedule.
[3] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[4] This word was substituted for the word "Provincial", *ibid.*
[5] Section 24A was inserted by Bom. 26 of 1952, s. 7.
[6] Clauses (3) and (4) were inserted by Bom. 36 of 1954, s. 5 (*i*).
[7] These words were substituted for the words "such preparation", *ibid.*, s. 5 (*ii*).
[8] These words were substituted for the words "certain toilet and medicinal preparations", *ibid.* s. 5 (*iii*).

CHAPTER IV.

CONTROL, REGULATION AND EXEMPTIONS.

Exemption of preparations.

25. The [1][State] Government may, by notification in the *Official Gazette*, direct that any preparation containing alcohol not exceeding a specified percentage by volume shall be exempt from any of the provisions of this Act or rules, regulations or orders made thereunder.

Distilleries and warehouses for intoxicants.

26. The [2][Director] may—

(*a*) establish a distillery in which spirit may be manufactured in accordance with a licence issued under this Act on such conditions as the [1][State] Government deems fit to impose ;

(*b*) discontinue any distillery established ;

(*c*) license, on such conditions as the [1][State] Government deems fit to impose, the construction and working of a distillery or brewery ;

(*d*) establish or license a warehouse wherein any liquor, intoxicating drug, hemp, mhowra flowers or molasses may be deposited and kept without payment of duty ; and

(*e*) discontinue any warehouse so established.

Intoxicating drug or hemp not to be removed from warehouse etc.

27. No liquor, intoxicating drug, hemp, mhowra flowers or molasses shall be removed from any distillery, warehouse or other place of storage established or licensed under this Act, except under a pass and unless the duty, if any, imposed under the provisions of this Act, has been paid or a bond has been executed for the payment thereof.

Passes for import, etc.

28. (*1*) The [1][State] Government may, by general or special order, authorize a Collector or any other officer to grant passes for the import, export or transport of any liquor, intoxicating drug or hemp.

(*2*) Such passes may be either general for definite periods of time and definite kinds of liquor, intoxicating drug or hemp or special for specified occasions and particular consignments only.

(*3*) Every such pass shall specify—

(*a*) the name of the person authorized to import, export or transport liquor, intoxicating drug or hemp ;

(*b*) the period for which the pass is to be in force ;

(*c*) the quantity and description of liquor, intoxicating drug or hemp for which it is granted ; and

(*d*) the places from and to which liquor, intoxicating drug or hemp are to be imported, exported or transported and in the case of places more than ten miles apart, the route by which they are to be conveyed.

Passes for through consignments.

29. The through transport of any consignment of any intoxicant, hemp, mhowra flowers or molasses by a railway administration or by any steamer, ferry, road transport or air service shall be under such passes and subject to such conditions as may be prescribed.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Schedule.

Licence for possession of denatured or rectified spirit and alcohol for industrial or medical purposes.

30. The [1][State] Government may, by rules or an order in writing, authorize an officer to grant licences for the possession of denatured spirit, rectified spirit and alcohol for industrial or medical purposes, if such spirit or alcohol is, in the opinion of the officer granting the licence, necessary for the scientific, industrial, medical or similar purpose :

Provided that no licence shall be necessary for the possession of denatured spirit to the extent of such quantity as may be prescribed.

Licences for *bona fide* medicinal or other purposes.

31. The [1][State] Government may, by rules or an order in writing, authorize an officer to grant licences to any person or in respect of any institution whether under the management of Government or not for the manufacture, export, import, transport, sale, [2][possession, consumption or use] of liquor, an intoxicating drug or hemp or any article containing liquor, intoxicating drug or hemp on the ground that [3][such liquor, intoxicating drug, hemp or article] is required by such person or in respect of such institution for a *bona fide* medicinal, scientific, industrial or such like purpose [4][or for sale for any of the aforesaid purposes] :

Provided that when any liquor, intoxicating drug, sweet toddy or article containing such liquor, drug or hemp has been obtained by any person for a *bona fide* medicinal [5]* * * * purpose from any person or institution licensed to sell the same under this section, it shall not be necessary for such person to obtain a licence for the possession [6][, consumption or use] of the same.

Licences for purchase, etc., of liquor for manufacture of [9][articles mentioned in section] 24A.

[7][**31A.** The State Government may, by rules or an order in writing, authorise an officer to grant licences for the purchase, possession or use of any liquor or alcohol for the manufacture of [8][any article mentioned in section 24A] on such conditions as may be prescribed.]

Licences for tapping for [11][neera].

32. The [1][State] Government may authorize an officer by rules or an order in writing to grant licences for [10][the tapping of, or drawing juice from, any palm trees for the purpose of sale or consumption as neera or] for the manufacture of gur or any other article which is not an intoxicant.

Trade and import licences.

33. The [1][State] Government may, by rules or an order in writing, authorize an officer to grant trade and import licences to persons intending to import and to sell by wholesale any liquor, intoxicating drug or hemp.

Vendor's licence.

34. (*1*) The [1][State] Government may, by rules or an order in writing, authorize an officer to grant a vendor's licence.

(*2*) A vendor's licence shall be granted on the following conditions :—

(*i*) the stock of foreign liquor with the licensee (except what is permitted for disposal in the shop) shall be kept by him at a warehouse approved by Government ;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words "or possession" by Bom. 26 of 1952, s. 8 (*1*).
[3] These words were substituted for the words "such article", *ibid.*, s. 8 (*2*).
[4] These words were inserted, *ibid.*, s. 8 (*3*).
[5] The words "scientific or industrial or like" were deleted, *ibid.*, s. 8 (*4*).
[6] These words were inserted, *ibid.*
[7] Section 31A was inserted, *ibid.*, s. 9.
[8] These words were substituted for the original by Bom. 36 of 1954, s. 6 (*i*).
[9] These words were substituted for the words "preparations referred to" *ibid.*, s. 6 (*ii*).
[10] These words were substituted for the words "the tapping of palmyra or date palm trees for juice intended to be used", by Bom. 26 of 1952, s. 10 (*1*).
[11] This word was substituted for the word "toddy" *ibid.*, s. 10 (*2*).

(*ii*) the licensee shall be allowed to select his own warehouse, and fix its rent with the owner :

Provided that or his failure to select such a warehouse, the warehouse shall be selected by the [1][State] Government ;

(*iii*) the licensee shall pay all rent, costs, charges and expenses incidental to warehousing and supervision ;

(*iv*) the licensee may sell any part of the stock to foreign liquor licensees in the [2][State] or to any persons outside the [2][State] subject to such conditions as the [3][Director] may prescribe ;

(*v*) the licensee shall be permitted to sell only to holders of permits or authorizations and chemists, [4][canteens,] messes and clubs holding licences ;

(*vi*) the licensee shall be entitled to keep in his shop such quantity of liquor as may be required by him from time to time for retail sale ;

(*vii*) the licensee shall keep accounts and shall dispose of the goods according to such instructions as may be given by the [3][Director] or any officer authorized in this behalf by the [3][Director.]

Hotel licences.

35. (*1*) The [1][State] Government may, by rules or an order in writing, authorize an officer to grant licences to the managers of hotels to sell foreign liquor to the holders of permits granted under this Act :

Provided that the [1][State] Government is satisfied that such hotel has ordinarily a sufficient number of boarders eligible to hold permits.

(*2*) Such licences shall be issued on the following conditions :—

(*i*) liquor shall be sold [5]* * * to the permit holders [6][residing or boarding] at the hotel,

(*ii*) consumption of liquor sold shall not be allowed in any of the rooms of the hotel to which any member of the public has access,

(*iii*) the holders of hotel licences shall pay the expenses of any officer of the excise establishment, if any, required for the grant and control of permits on the premises.

Special import licences to hotels.

36. The [1][State] Government may, by rules or an order in writing, authorize an officer to grant special import licences to managers of hotels for the purpose of importing foreign liquor for use in the hotel.

[8][Dining car licences.]

37. The [1][State] Government may, by rules or an order in writing, authorize an officer to grant licences to sell foreign liquor to the managers of dining cars on railways [7]* * * on such conditions as may be prescribed.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Province", *ibid.*
[3] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
[4] This word was inserted by Bom. 26 of 1952, s. 11.
[5] The words "in sealed bottles" were deleted, *ibid.*, s. 12 (*1*).
[6] These words were substituted for the word "residing", *ibid.*, s. 12 (*2*).
[7] The words "and Captains of coastings steamers" were deleted, *ibid.*, s. 13 (*1*).
[8] This marginal note was substituted for the original, *ibid.*, s. 13 (*2*).

Licences to shipping companies [and to Masters of ships]

38. The [1][State] Government may, by rules or an order in writing, authorize an officer to grant licences to any shipping company for each ship [2][or to the Master of any ship] to sell foreign liquor [3][and to permit the use or consumption of foreign liquor on such ship on such conditions as may be prescribed].

Permission to use or consume foreign liquor on [4]* * warships, troopships, and in [5][messes and canteens of armed forces].

39. The [1][State] Government may, on such conditions as may be specified [6][by a general or special order, permit—

(*i*) the sale of foreign liquor to,

(*ii*) the purchase, use or consumption of such liquor by,—

(*a*) the members of the armed forces in messes and canteens, and

(*b*) the crew of warships or troopships and the members of the armed forces thereon].

Permits.

40. (*1*) The [1][State] Government may, by rules or an order in writing, authorize an officer to grant permits for the use or consumption of foreign liquor to persons on the following conditions :—

(*a*) that such person is not a minor;

[8]* * * * * *

(*c*) (*i*) that such person was either born and brought up or domiciled in any country outside India where such liquor is being generally used or consumed; or

(*ii*) that such person is on the Register of Foreigners under the Registration of Foreigners Act, 1939, and is not domiciled in [9][India]:

XVI of 1939.

Provided that, in the case of any person falling under sub-clause (*i*) or (*ii*)—

(*a1*) such person has been residing and intends to reside in India temporarily and that such person has a fixed and settled purpose of making his sole and permanent home in any country outside India; and

(*b1*) that such person has been ordinarily using or consuming such liquor.

(*2*) Such permits may be granted by the [10][Director] or the officer authorized or the committee appointed for the purpose.

(*3*) Such permits shall be granted for such quantities as may be prescribed.

[11][(*4*) If any question arises whether the conditions imposed by clause (*a*) or (*c*) of sub-section (*1*) are satisfied or not in any case, the State Government shall decide the question and its decision shall be final.]

[12]* * * * * * *

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1 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2 These words were inserted by Bom. 26 of 1952, s. 14 (*1*).
3 These words were substituted for the words "on condition that such liquor shall be sold only to *bona fide* passengers on such ship", *ibid*, s. 14 (*2*).
4 These words were added, *ibid.*, s. 14 (*3*).
5 This portion was substituted for the words beginning with the words "in the notification" and ending with the word "canteens", *ibid.*, s. 15 (*1*).
6 The words "cargo boats" were deleted *ibid.*, s. 15 (*2*).
7 These words were substituted for the words "military and naval messes and canteens", *ibid.*
8 Clause (*b*) was deleted, *ibid.*, s. 16 (*1*).
9 This word was substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.
10 This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Schedule.
11 Sub-section (*4*) was added by Bom. 26 of 1952, s. 16 (*2*).
12 The Explanation was deleted, *ibid.*, s. 16 (*3*).

Health permits.

[1][**40A.** (*1*) The State Government may by rules or orders in writing authorise an officer to grant a health permit for the use or consumption of foreign liquor to any person who requires such liquor for the preservation or maintenance of his health:

Provided that no such permit shall be granted to a minor.

(*2*) Such permit shall be granted for such quantity and shall be subject to such further conditions as may be prescribed.

Emergency permits.

40B. (*1*) The State Government may by rules or orders in writing authorise an officer to grant emergency permits for the use or consumption of brandy, rum or champagne or any other kind of liquor to any person for his own use or consumption or to any head of a household for the use of his household for medicinal use on emergent occasions:

Provided that the person to whom a permit is granted under this section may allow the use or consumption of liquor in respect of which the permit has been granted to any other person who requires the use thereof for medicinal purpose on emergent occasions:

Provided further that no permit shall be granted to more than one member of a household at any one time.

(*2*) When a person to whom an emergency permit is granted allows the use or consumption of liquor held by him under the said permit to any other person on the occasion referred to in the first proviso to sub-section (*1*), the person holding the emergency permit shall intimate the said fact in such manner and at such time as may be prescribed to an officer appointed by the State Government in this behalf.

(*3*) Such permits shall be granted for such quantities and shall be subject to such further conditions as may be prescribed.

Explanation.—For the purposes of this section a household shall mean a group of persons residing and messing jointly as the members of one domestic unit]

Special permits to foreign sovereigns, etc.

41. The [2][State] Government may grant special permits for the use or consumption of foreign liquor [3][to any person who is—

(*a*) a Sovereign or Head of a foreign State;

(*b*) an Ambassador, Diplomatic Envoy or Consul, Honorary Consul or Trade, Commerce or other representative of a foreign State;

(*c*) a member of the staff appointed by or serving under any person specified in clause (*a*) or (*b*): Provided that such member is a national of a foreign State; and

(*d*) the Consort of any person specified in clause (*a*), (*b*) or (*c*) or any relation of such person dependent upon him].

Permits to be non-transferable.

42. Permits granted under section 40 [4][, 40A, 40B] or 41 shall be non-transferable.

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1 Sections 40A and 40B were inserted by Bom. 26 of 1952, s. 17.

2 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3 This portion was substituted for the words beginning with the words "to sovereigns" and ending with the words "envoy or consul", by Bom. 26 of 1952, s. 18.

4 This figures and letters were inserted, *ibid.*, s. 19.

Regulation of use or consumption of foreign liquor by certain permit holders.

[1][43. (*1*) No holder of a permit granted under any of the provisions of this Act other than section 40B shall drink in a public place or in the rooms of a hotel or institution to which the public may have access.

(*2*) No holder of a permit granted under section 40A shall allow the use or consumption of any part of the quantity held by him to any other person.

(*3*) No holder of a permit granted under section 40, 41, 46 [2][, 46-A] or 47 shall allow the use or consumption of any part of the quantity held by him under the permit to any other person who is not the holder of any such permit.]

Licence clubs.

44. (*1*) The [3][State] Government may, by rules or an order in writing, [4][grant or authorize an officer to grant] licences to a club approved by the [3][State] Government in this behalf to sell foreign liquor.

(*2*) Such licences shall be granted on the following conditions :—

(*a*) that the number of the resident members of the club does not exceed the maximum number of resident membership of such club during the three years immediately before the commencement of this Act :

Provided that the [5][Director] in Greater Bombay and the Collector elsewhere may, subject to the general or special orders of the [3][State] Government, permit such maximum number of resident members to be exceeded in the case of any particular club ;

(*b*) that no liquor shall be served to the holder of any permit in any room of the club to which the public have access at the time when any person who does not hold such permit is present ;

(*c*) that the club when authorized by any member who is the holder of a permit may stock the permitted quantity of liquor on account of such member ; and

(*d*) that liquor stocked on behalf of a member who is the holder of a permit may be served to any person who is the holder of a permit.

Explanation.—For the purposes of this section a resident member of a club shall mean a member who ordinarily resides in the case of a club situated in Greater Bombay within the limits of the said area and elsewhere within the limits of a local authority in which the club is situated.

Authorization for sacramental purposes.

45. (*1*) The [3][State] Government may, by rules or an order in writing, authorize an officer to grant any authorization to any person for the use of liquor for sacramental purposes :

Provided that the officer so authorized is satisfied that the use of such liquor is required in accordance with the religious tenets of the community to which such person belongs.

(*2*) An authorization under this section shall be granted on the recommendation of the person who consistently with the religious tenets of the community to which the persons applying for the authorization belongs exercises control over sacramental matters relating to such community and has been approved by the [3][State] Government in that behalf.

(*3*) If in any community there is no person who exercises control over sacramental matters relating to such community and if in the opinion of the [3][State] Government it is so desirable, the authorization under this section may be granted on the recommendation of such member of the community as may be approved by the [3][State] Government in this behalf.

(*4*) If any dispute arises whether the use of liquor is required by any person for sacramental purpose, the person requiring such use may apply to the [5][Director].

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[1] Section 43 was substituted for the original by Bom. 26 of 1952, s. 20.
[2] These figures and letter were inserted by Bom. 20 of 1955, s. 3.
[3] This was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words "authorize or grant" by Bom 26 of 1952, s. 21.
[5] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

The [1][Director] after holding a summary inquiry in the prescribed manner shall decide whether or not the liquor is required by the person for sacramental purposes.

(*5*) The decision of the [1][Director] under sub-section (*4*) shall be final.

Visitors' permits.

46. (*1*) The [2][State] Government may, by rules or an order in writing authorize an officer to grant visitors' permits to consume, use and buy foreign liquor to persons who visit the [3][State] for a period not more than a week.

(*2*) Such permits shall not be granted for a period exceeding one week, provided that the officer granting the permit may extend the period of such permits for the total period not exceeding one month.

(*3*) Such permit shall be available at such places as may be notified by the [1][Director] in this behalf.

Tourists' permits.

[4][**46-A.** (*1*) The State Government may, by rules or an order in writing authorize an officer to grant tourists' permits to consume, use and buy foreign liquor to a person who is a tourist.

(*2*) A tourist's permit may be granted for the period of the tourist's intended stay in the State, but shall in no case be granted for a period exceeding one month.

(*3*) Such permits shall be available at such places as may be notified by the Director in this behalf.]

Interim permits.

47. (*1*) Notwithstanding anything contained in sections [5][40, 40A and 41], the [2][State] Government may, by rules or an order in writing, [6][authorize an officer to] grant interim permits to persons applying for permits under any of the said provisions.

(*2*) Such interim permits shall not be granted for any period exceeding two months.

[7][Licence for consumption or use of intoxicating drugs.]

48. (*1*) The [2][State] Government may by rules or an order in writing authorize an officer to grant licences for the [7][consumption or use] of [8][intoxicating drugs] in such quantities as may be prescribed.

(*2*) Such licences shall be granted on the certificate of the Medical Board.

Power to make rules or pass orders for possession, etc., of opium.

49. The [2][State] Government may from time to time make rules or pass orders to permit absolutely or subject to any conditions or the payment of duty and to regulate within the whole of the [3][State] or any local area all or any of the following matters :—

(*a*) the possession of opium,

(*b*) the use or consumption of opium,

(*c*) the transport of opium,

(*d*) the import or export of opium,

(*e*) the sale or buying of opium,

(*f*) the safe custody of opium warehoused, the levying of fees for warehousing opium and the removal of warehoused opium for sale.

Warehousing of opium.

50. (*1*) The [2][State] Government or any officer authorized in this behalf may declare any place to be a warehouse for opium intended to be sold or exported therefrom. So long as the declaration remains in force, the owner of such article shall be bound to deposit it in that warehouse.

(*2*) No opium shall be removed from any warehouse declared under sub-section (*1*), except under a pass and unless the duty, if any, imposed under the provisions of this Act has been paid or a bond has been executed for the payment thereof.

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[1] This word was substituted for the word " Commissioner " by Bom. 28 of 1950, Sch.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word " Province ", *ibid.*

[4] Section 46A was inserted by Bom. 20 of 1955, s. 4.

[5] These figures, letter and word were substituted for the figures and word "40 and 41" by Bom. 26 of 1952, s. 22 (*1*).

[6] These words were inserted *ibid*, s. 22 (*2*).

[7] These words were substituted for the word " sale " *ibid.*, s. 23 (*1*).

[8] These words were substituted for the words " hemp drugs ", *ibid.*

[9] This marginal note was substituted for the original *ibid.*, s. 23 (*2*).

Rules for sale, etc., of warehoused intoxicant or hemp.

51. The [1][State] Government may, by rules made in this behalf, regulate the sale, custody or removal of warehoused intoxicants or hemp.

Power of authorized officer to grant licences, permits and passes in certain cases.

52. Notwithstanding anything in this Act, it shall be lawful for any officer authorized by the [1][State] Government in this behalf to grant any licences, passes or permits for import, export, transport possession, sale, buying, cultivation, collection, manufacture, consumption and use of any intoxicant, hemp or mhowra flowers or molasses or for the tapping of any toddy producing tree or the drawing of toddy from such tree in cases other than those specifically provided under any of the provisions of this Act.

General conditions regarding licences, etc.

53. All licences, permits, passes, or authorizations granted under this Act shall be in such form and shall, in addition to or in variation or substitution of any of the conditions provided by this Act, be subject to such conditions as may be prescribed and shall be granted on payment of the prescribed fee :

Provided that every licence, permit, pass or authorization shall be granted only on the condition that the holder thereof undertakes, and in the opinion of the officer authorized to grant the licence, permit, pass or authorization is likely to abide by all the conditions of the licence, permit, pass or authorization and the provisions of this Act. [2]* * * * *

Power to cancel or suspend licences and permits.

54. (*1*) The [3][Director] or any officer authorized in this behalf may cancel or suspend any licence, permit, pass or authorization granted under this Act,

(*a*) if any fee or duty payable by the holder thereof is not duly paid;

(*b*) if the purpose for which the licence, permit, pass or authorization was granted ceases to exist ;

(*c*) in the event of any breach by the holder of such licence, permit, pass or authorization or by his servant or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence, permit, pass or authorization or of any licence, permit, pass or authorization previously held by the holder ;

(*d*) if the holder thereof or any person in the employ of such holder or any person acting with his express or implied permission on his behalf is convicted of any offence under this Act or if the holder of the licence, permit, pass or authorization is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930, or under the Indian Merchandise Marks Act, 1889, or of any offence punishable under sections 482 to 489 (both inclusive) of the Indian Penal Code, or of any offence punishable under Article 8 of the Schedule to section 167 of the Sea Customs Act, 1878.

II of 1930. IV of 1889. XLV of 1860. VIII of 1878.

(*2*) Where a licence, permit, pass or authorization held by any person is cancelled under sub-section (*1*), the authority aforesaid may cancel any other licence, permit, pass or authorization granted or deemed to have been granted to such person under this Act.

(*3*) Notwithstanding anything contained in the foregoing sub-sections, the [1][State] Government may cancel or suspend any licence, permit, pass or authorization without assigning any reason.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] The words beginning with the words " and not to do anything " and ending with the words " object and purposes of this Act " were deleted by Bom. 26 of 1952, s. 24.
[3] This word was substituted for the word " Commissioner " by Bom. 28 of 1950, Sch.

Holder of licences, etc., not entitled to compensation or refund of fee for cancellation or suspension thereof.

55. No holder of a licence, permit, pass or authorization shall be entitled to any compensation for the cancellation or suspension of the licence, permit, pass or authorization under section 54 nor to a refund of any fee or deposit made in respect thereof.

Cancellation for other reasons.

56. (*1*) Whenever the authority granting a licence considers that it should be cancelled for any cause other than those specified in section 54, he may cancel the licence either—

(*a*) on the expiration of not less than fifteen days' notice in writing of his intention to do so ; or

(*b*) forthwith without notice after recording his reasons in writing for doing so.

[1][(*2*) When a licence is cancelled under sub-section (*1*), a part of the licence fee proportionate to the unexpired portion of the term of such licence and the deposit made by the licensee in respect of such licence shall be refunded to him after deducting the amount due from him to the State Government.]

Attachment of licence.

57. Notwithstanding anything contained in any other section, when a licence is liable under that section to cancellation owing to default in the payment of any duty or fee payable by the holder thereof, the authority granting the licence may attach and take such licence under management, and if the profits received from such management after meeting all the expenses of such attachment and management are less than the amount of the arrears for which the licence was attached and the amount falling due on such licence during the remaining period of such licence, the difference shall be recovered from the licensee as if it were a duty or fee leviable under any one of the provisions of this Act, and in the event of the said profits exceeding the amount so due under the licence, the licensee shall not be entitled to receive any of the said profits.

Right, title or interest under licence not liable to be sold or attached in execution.

58. Notwithstanding anything contained in any law for the time being in force no right, title or interest in any licence, permit, pass or authorization granted under this Act shall be liable to be sold, transferred or attached in execution of any process of any civil or any other court.

[2][Director] entitled to require licence holder [4][or owner] to dispose of stocks.

59. (*1*) Notwithstanding the fact that the period during which any licence, permit, pass or authorization is to be in force has not expired, the [2][Director] may direct the holder thereof to dispose of his stock of intoxicant or hemp or mhowra flowers before such date as may be specified in the order.

[3][(*1A*) The Director may also direct the owner of the stock of any intoxicant, hemp or mhowra flowers who does not hold any licence, permit, pass or authorization for such stock to dispose of the said stock before such date as may be specified in the order, and the owner shall comply with such direction.]

(*2*) Any stock of intoxicant, hemp or mhowra flowers left undisposed of after the date so specified shall, together with receptacles or packages in which it is contained, be liable to forfeiture to [5][the State Government] by the order of the [2][Director]. On the cancellation or the expiry of the period of any licence, permit, pass

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[1] Sub-section (*2*) was substituted for the original by Bom. 26 of 1952, s. 25.
[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
[3] Sub-section (*1A*) was inserted by Bom. 26 of 1952, s. 26 (*1*).
[4] These words were inserted, *ibid*, s. 26 (*2*).
[5] These words were substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

or authorization, the [1][Director] may also direct that any stock of any intoxicant, hemp or mhowra flowers remaining with the holder of the licence, permit, pass or authorization together with receptacles or packages thereof be forfeited to [2][the State Government].

(*3*) If the articles which are forfeited under sub-section (*2*) are sold, the [1][Director] may, if he thinks fit, order the whole or any portion of the sale proceeds of such articles to be paid to the owner thereof.

[3][CHAPTER IV-A.

CONTROL AND REGULATION OF [4][ARTICLES MENTIONED IN SECTION 24A] TO PREVENT THEIR USE AS INTOXICATING LIQUOR.

[5][Manufacture of articles mentioned in section 24A.]

59A. (*1*) No manufacturer of any of the articles mentioned in section 24A shall sell, use or dispose of any liquor purchased or possessed for the purposes of such manufacture under the provisions of this Act otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any of the articles mentioned in section 24A than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the article :

Provided that in the case of manufacture of any of the articles mentioned in section 24A in which the alcohol is generated by a process of fermentation the amount of such alcohol shall not exceed 12 per cent.

(*2*) No person shall—

(*a*) knowingly sell any [5][article mentioned in section 24A] for being used as an intoxicating drink, or

(*b*) sell any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose.

[7][Analysis of articles mentioned in section 24A.]

59B. [8][(*1*)] Whenever the Director has reason to believe that any of the articles mentioned in section 24A does not correspond with the description and limitations provided in section 59A, he shall cause an analysis of the said articles to be made and if upon such analysis the Director shall find that the said article does not so correspond, he shall give not less than 15 days' notice, in writing to the person who is the manufacturer thereof or is known or believed to have imported such article to show cause why the said article should not be dealt with as an intoxicating liquor, such notice to be served personally or by registered post, as the Director may determine, and shall specify the time when, place where, and the name of the officer before whom such person is required to appear.]

[9][(*2*) Whenever the Director causes an analysis of an article mentioned in section 24-A to be made under sub-section (*1*), he may require the person who is the manufacturer thereof or who is known or believed to have imported such article not to sell, distribute or otherwise deal with such article, or to remove it from any place without the previous permission of the Director, for any period not exceeding three months from the date of such requisition or till the result of the analysis is known and communicated to him, whichever is earlier ; and thereupon such manufacturer or person shall comply with such requisition during the said period.]

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[1] This word was substituted for the word " Commissioner " by Bom. 28 of 1950, Sch.
[2] These words were substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.
[3] Chapter IV-A was inserted by Bom. 26 of 1952, s. 27.
[4] These words were substituted for the original by Bom. 36 of 1954, s. 7.
[5] These words were substituted for the original *ibid.*, s. 8 (*i*).
[6] This marginal note was substituted for the original, *ibid.*, s. 8 (*ii*).
[7] This marginal note was substituted for the original, *ibid.*, s. 9.
[8] Section 59B was renumbered as sub-section (*1*) of that section by Bom. 20 of 1955, s. 5.
[9] This sub-section was added, *ibid.*

CHAPTER V.

MHOWRA FLOWERS.

Prohibition of export or import of mhowra flowers.

60. (*1*) No person shall export or import mhowra flowers except under a pass granted by the Collector or an officer authorized in this behalf.

Control and regulation of transport, sale, etc. of mhowra flowers.

(*2*) [1][No person or head of household on his behalf or on behalf of the members of his household shall in the aggregate] collect or transport or sell or buy or have in his possession mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the conditions of a licence, permit or pass granted [2][by the Collector or an officer authorized] in this behalf:

Provided that no licence, permit or pass shall be necessary for the collection, transport, sale, purchase or possession within such area and during such period (hereinafter called vacation period) as the [3][State] Government may, by notification in the *Official Gazette*, notify, of any quantity of mhowra flowers which shall be the produce of that year [4][and of that area]:

Provided further that unless the [3][State] Government by a notification in the *Official Gazette*, otherwise directs, no licence, permit or pass shall be necessary for the transport by rail of any quantity of mhowra flowers through an area which has no vacation period or the vacation period for which has expired at the time when the transport takes place, provided that—

(*i*) the said flowers are not unloaded in transit, and

(*ii*) there is a vacation period at the place from which and to which the said flowers are transported at the time when the said flowers are despatched or arrive, as the case may be.

[5][*Explanation.*—For the purpose of this sub-section, a household shall mean a group of persons residing and messing jointly as members of one domestic unit.]

CHAPTER VI.

CONTROL AND REGULATION OF MOLASSES.

Control of export, etc., of molasses.

61. (*1*) Except as otherwise provided in sub-sections (*2*) and (*3*) no person shall export, import, transport, sell or have in his possession any quantity of molasses.

(*2*) The [3][State] Government may, by general or special order, authorize any Collector [6][or any other officer] to grant licences for the import, export, sale or possession of molasses.

(*3*) The [3][State] Government may also authorize any Collector or any other officer to grant permits for the transport of molasses.

Provisions of sections 53 to 59 to apply to licences granted under section 61.

62. The provisions of sections 53 to 59 shall, so far as may be applicable, apply to licences or permits granted under section 61.

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[1] These words were substituted for the words "No person shall", by Bom. 26 of 1952, s. 28 (*1*).
[2] These words were inserted *ibid.*, s. 28 (*2*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were added by Bom. 26 of 1952, s. 28 (*3*).
[5] This Explanation was added *ibid.*, s. 28 (*4*).
[6] These words were inserted, *ibid.*, s. 29.

63. [*Control of price of molasses.*] *Deleted by Bom. 26 of 1952, s. 30.*

64. [*Power of State Government to direct holder of stock of molasses to sell them at fixed price to any officer, person or class of persons.*] *Deleted by Bom. 26 of 1952, s. 30.*

CHAPTER VII.

OFFENCES AND PENALTIES.

Penalty for illegal import, etc., of intoxicant or hemp.

65. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or of any licence, pass, permit or authorization granted, thereunder—

(*a*) imports or exports any intoxicant or hemp,

(*b*) manufactures any intoxicant,

(*c*) constructs or works any distillery or brewery,

(*d*) bottles liquor,

(*e*) sells or buys any intoxicant or hemp, or

(*f*) uses, keeps or has in his possession any materials, still, utensils, implements or apparatus for the purpose of manufacturing any intoxicant (other than toddy),

shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

Penalty for illegal cultivation and collection of hemp and other matters.

66. Whoever in contravention of the provisions of this Act, or of any rule, regulation or order made, or of any licence, permit, pass or authorization issued, thereunder—

(*a*) cultivates or collects hemp,

(*b*) consumes, uses, possesses or transports any intoxicant or hemp,

(*c*) taps or permits to be tapped any toddy producing tree,

(*d*) draws or permits to be drawn toddy from any tree,

shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees ;

(*iii*) for a third or subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees.

Penalty for alteration or attempting to alter denatured spirit.

67. Whoever in contravention of section 21 alters or attempts to alter any denatured spirit or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

Penalty for alteration or attempting to alter denatured spirituous preparation.

[1][**67-1A.** Whoever in contravention of section 21A alters or attempts to alter any denatured spirituous preparation or has in his possession any such preparation in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.]

[1] Section 67-1A was inserted by Bom. 36 of 1954, s. 10.

[1][67A. (*1*) Whoever in contravention of the provisions of section 59A,— Penalty for manufacturing [7][articles mentioned in section 24A] in contravention of the provisions of section 59A.

(*a*) sells, uses or disposes of any liquor otherwise than as an ingredient of any [2][article mentioned in section 24A], or

(*b*) uses more alcohol in the manufacture of such [3][article] which may be used as intoxicating liquor than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of such [3][article], or

(*c*) knowingly sells [4][any such article] for being used as an intoxicating drink, or sells any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose,

shall, on conviction be punished with imprisonment for a term which may extend to one year or with fine or with both.

(*2*) No person who has been convicted for any offence under this section or has paid any sum of money under section 104 for such offence shall be entitled to manufacture, import or to sell any [5][article mentioned in section 24A] for a period of one year from the date of such conviction or payment, and any person who imports, manufactures or sells any [6][such article] in contravention of this sub-section shall be liable to the same punishment as is provided for an offence punishable under section 65.

67B. [8][(*1*)] If the manufacturer of any of the articles mentioned in section 24A fails to show to the satisfaction of the Director that the article corresponds to the description and limitations provided in section 59A, his licence for the purchase, use or possession of liquor or alcohol for the manufacture of such article shall be revoked.] [10][Penalty for failure to satisfy the Director under sub-section (*1*) or to comply with a requisition under sub-section (*2*) of section 59-B.]

[9][(*2*) Any person who fails to comply with any requisition made by the Director under sub-section (*2*) of section 59-B shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.]

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[1] Sections 67A and 67B were inserted by Bom. 26 of 1952, s. 31.
[2] These words were substituted for the words " medicinal or toilet preparation " by Bom. 36 of 1954, s. 11 (*i*) (*a*).
[3] This word was substituted for the word " preparation " *ibid.*, s. 11 (*i*) (*b*).
[4] These words were substituted for the original *ibid.*, s. 11 (*i*) (*c*).
[5] These words were substituted for the original *ibid.*, s. 11 (2) (*a*).
[6] These words were substituted for the words " such preparation " *ibid.*, s. 11 (*2*) (*b*).
[7] These words were substituted for the words " medicinal or toilet preparations ", *ibid.*, s. 11 (*iii*).
[8] Section 67B was renumbered as sub-section (*1*) of that section by Bom. 20 of 1955, s. 6 (*1*).
[9] This sub-section was added, *ibid.*
[10] This was substituted for the original, *ibid.*, s. 6 (*2*).

Penalty for opening, etc., of common drinking house.

68. Whoever—

(*a*) opens, keeps or uses any place as a common drinking house ; or

(*b*) has the care, management or control of, or in any manner assists in conducting the business of any place opened, kept or used as a common drinking house,

shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

Penalty for illegal import, etc., of mhowra flowers.

69. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or licence, permit or pass granted thereunder, imports, exports, [1][collects,] transports, sells [1][,buys] or has in his possession mhowra flowers shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of sepcial and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees :

[1] This word was inserted by Bom. 26 of 1952, s. 32.

Provided further that no person shall be punished in respect of any mhowra flowers which are either growing on a tree or are lying uncollected on the ground as they have fallen from a tree.

Penalty for illegal import, etc., of molasses.

70. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or of any licence or permit granted thereunder, exports, imports, transports, sells or has in his possession molasses shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

71. [*Penalty for selling molasses at price exceeding fixed price.*] *Deleted by Bom. 26 of 1952, s. 33.*

Penalty for failure, etc., of warehousing opium.

72. Whoever in contravention of the provisions of this Act or any rule, regulation or order made thereunder, omits to warehouse opium or removes or does any act in respect of the warehoused opium, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for printing or publishing advertisements in contravention of provisions of Act, etc.

73. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made thereunder, prints or publishes in any newspaper, news-sheet, book, leaflet, booklet or any single or periodical publication or otherwise displays or distributes any advertisement or other matter—

(*a*) which [1]* solicits the use of or offers any intoxicant or hemp, or

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of, or to evade the provisions of, any rule, regulation or order made thereunder or of the conditions of a licence, permit, pass or authorization granted thereunder—

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty for circulating, etc., newspapers, etc., containing advertisements regarding intoxicants, etc.

74. Whoever, in contravention of a notification issued under sub-section (*3*) of section 24, circulates, distributes or sells any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the [2][State] which contains any advertisement or matter,—

(*a*) which [3]* solicits the use of or offers any intoxicant or hemp, [4][or]

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of any licence, permit, pass or authorization granted thereunder—

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for inciting or encouraging certain acts [6]* * *

75. Whoever, in contravention of the provisions of this Act or any rule, regulation or order made thereunder,—

(*a*) [5]* solicits the use of or offers any intoxicant or hemp, or

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[1] The word " commends " was deleted by Bom. 26 of 1952, s. 34.
[2] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[3] The word " commends " was deleted by Bom. 26 of 1952, s. 35 (*1*).
[4] This word was inserted, *ibid*, s. 35 (*2*).
[5] The word " commends " was deleted, *ibid*, s. 36 (*1*).
[6] The words " frustrating provisions of this Act " were deleted, *ibid*, s. 36 (*3*).

[1]* * * * * * *

(*c*) does any act which is calculated to incite or encourage any individual or a class of individuals or the public generally to commit an offence under this Act or to commit a breach of any rule, regulation or order made or of conditions of a licence, permit, pass or authorization granted thereunder,

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for neglect to keep measures, etc.

76. Whoever in contravention of the provisions of this Act, rule or regulation or order or condition of any licence, permit or pass granted under this Act,—

(*a*) neglects to supply himself with measures and weights for measuring and weighing any intoxicant or hemp, or with instruments for testing the strength of liquor or keep the same in good condition, or

(*b*) refuses to measure, weigh, or test any intoxicant or hemp in his possession,

shall, on conviction, be punished for each such offence with fine which may extend to two hundred rupees.

Penalty for misconduct by licensee, etc.

77. Whoever, being the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(*a*) fails to produce licence, permit, pass or authorization on demand by a Prohibition Officer or any other officer duly empowered if such licence, permit, pass or authorization is in his possession or control, or

(*b*) wilfully does or omits to do anything in contravention of any rule, regulation or order made under this Act, or

(*c*) wilfully does or omits to do anything in breach of any of the conditions of such licence, permit, pass or authorization, not otherwise provided for in this Act,

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees or with both.

Penalty for misconduct by licensed vendor or manufacturer.

78. Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(*a*) mixes or permits to be mixed with the said intoxicant any noxious drug or any foregin ingredient likely to add to the actual or apparent intoxicating quality or strength or any article prohibited by any rule made under this Act or water except for the purpose of reducing liquor to the strength prescribed in the licence, or any diluting or colouring substance or any ingredient whatsoever likely to render the intoxicant inferior in quality whether such ingredient is or is not prohibited as aforesaid, when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code, or

XLV of 1860.

(*b*) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor, or

(*c*) marks the cork of any bottle or any bottle, case, package or other receptacle, containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other

[1] Clause (*b*) was deleted by Bom. 26 of 1952, s. 36 (2).

receptacle contains foreign liquor, when such act shall not amount to an offence of using a false trade mark with intent to deceive or injure any person under section 482 of the Indian Penal Code, or XLV of 1860.

(*d*) sells or exposes for sale, any country liquor in a bottle, case or package or other receptacle, with any mark thereon, or on the cork thereof with the intention of causing it to be believed, that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the Indian Penal Code, or XLV of 1860

(*e*) sells any intoxicant which is not of the nature, substance and quality demanded by the purchaser or keeps or exposes for sale any intoxicant which is not of the nature, substance and quality authorised by the terms of the licence to be kept for sale by the holder of the licence,

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees.

Liability of licensee for acts of servants.

79. The holder of a licence, permit, pass or authorisation granted under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting with his express or implied permission on his behalf under the provisions of this Act as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

Import, export, etc. of intoxicant by any person on account of another.

80. (*1*) Whenever any intoxicant, hemp, mhowra flowers or molasses are manufactured, imported, exported, transported, sold or are possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture, import, export, transport, sale or possession is, on his account, the intoxicant, hemp, mhowra flowers or molasses, as the case may be, shall for the purposes of this Act, be deemed to have been manufactured, imported, exported, transported or sold by or to be in possession of, such other person.

(*2*) Nothing in sub-section (*1*) shall absolve any person from liability to any punishment under this Act for the unlawful manufacture, import, export, transport, sale or possession of such articles.

Penalty for attempts or abetment.

81. Whoever attempts to commit or abets the commission of an offence under this Act shall, on conviction, be punished for such attempt or abetment with the same punishment as is provided for the principal offence.

Breach of licence, permit, etc., to be an offence.

82. (*1*) In the event of any breach by the holder of any licence, permit, pass or authorisation granted under this Act or by his servants or by any person acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence, permit, pass or authorisation, such holder shall, in addition to the cancellation or suspension of the licence, permit, pass or authorisation granted to him, be punished, on conviction with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, unless it is proved that all due and reasonable precautions were exercised by him to prevent any such breach.

(2) Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, permit, pass or authorization be liable to the same punishment.

Penalty for conspiracy.

83. When two or more persons agree—

(*a*) to commit or cause to be committed any offence under this Act, or

(*b*) [1]* * * to commit a breach of a condition of a licence, permit, pass or authorization,

each of such persons shall, on conviction, be punished with imprisonment for a period which may extend to two years or with fine which may extend to one thousand rupees or with both.

Penalty for being found drunk in any drinking house.

84. Whoever is found drunk or drinking in a common drinking house, or is found there present for the purpose of drinking, shall, on conviction, be punished with fine which may extend to five hundred rupees. Any person found in a common drinking house during any drinking therein shall be presumed, until the contrary is proved, to have been there for the purpose of drinking.

Penalty for being drunk and for disorderly behaviour.

85. [2][(*1*)] Whoever in any street or thoroughfare or public place or in any place to which the public have or are permitted to have access—

(*1*) is drunk and incapable of taking care of himself, or

(*2*) behaves in a disorderly manner under the influence of drink [3][or

(*3*) is found drunk but who is not the holder of a permit granted under the provisions of this Act or is not eligible to hold a permit under section 40, 41, [4][; 46 or 46A].

shall, on conviction, be punished,—

(*i*) for an offence under clause (*1*) [5][or clause (*3*)],—

(*a*) for a first offence, with imprisonment for a term which may extend to one month and with fine which may extend to two hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than seven days and fine shall not be less than twenty-five rupees ; and

(*b*) for a subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees ; and

(*ii*) for an offence, under clause (*2*),—

(*a*) for a first offence, with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees : and

(*b*) for a subsequent offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees.

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[1] The words "to defeat or frustrate the provisions of this Act, rule, regulation or order, or" were deleted by Bom. 26 of 1952, s. 37.

[2] Section 85 was renumbered as sub-section (*1*) of the said section, *ibid.*, s. 38.

[3] This portion was inserted, *ibid.*, s. 38(*1*).

[4] These figures, word and letter were substituted for the word and figures "or 46" by Bom. 20 of 1955, s. 7.

[5] These words, brackets and figures were inserted by Bom. 18 of 1953, s. 3 and Second Schedule.

[1][(2) In prosecution for an offence under sub-section (1), it shall be presumed until the contrary is proved that the person accused of the said offence has drunk liquor or consumed any other intoxicant for the purpose of being intoxicated and not for a medicinal purpose.]

Penalty for allowing any premises to be used for purpose of committing an offence under Act.

86. (1) Whoever, being the owner or occupier, or having the use or care or management or control of any place, knowingly permits it to be used for the purpose of the commission by any other person of any offence punishable under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

(2) It shall be presumed until the contrary is proved, that a person accused of an offence under sub-section (1) has committed such offence if the offence committed by that other person is proved to have been committed in the premises in his immediate possession.

Penalty for chemist, druggist or apothecary for allowing his premises to be used for purpose of consumption of liquor.

87. A chemist, druggist, apothecary or keeper of a dispensary who allows any liquor, which has not been *bona fide* medicated for medicinal purposes according to the prescription of a medical practitioner or any intoxicating drug to be consumed on his business premises by any person, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for issuing false prescriptions.

88. If a medical practitioner issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the purpose of consuming liquor, intoxicating drug or opium in contravention of the provisions of this Act, or rule, regulation or order made thereunder or any licence, permit, pass or authorization granted under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for maliciously giving false information.

89. Any person who maliciously and falsely gives information to any person exercising powers under this Act leading to a search, seizure, detention or arrest shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for offences not otherwise provided for.

90. Whoever is guilty of any wilful act or intentional omission in contravention of the provisions of this Act, or any rule, regulation, or order thereunder or of any licence, permit, pass or authorization granted under this Act, and if such act or omission is not otherwise made an offence under this Act shall, on conviction, be punished with the imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Demand for security for abstaining from commission of certain offences.

91. (1) Whenever any person is convicted of an offence punishable under this Act, the court convicting such person, may, at the time of passing the sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties to abstain from the commission of offences punishable under the provisions of this Act during such period not exceeding three years as it may direct.

[1] Sub-section (2) was added by Bom. 26 of 1952, s. 38 (2).

(*2*) The bond shall be in such form as may be provided under the provisions of the Code of Criminal Procedure, 1898, and the provisions of the said Code shall in so far as they are applicable apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

V of 1898.

(*3*) If the conviction is set aside in appeal the bond so executed shall become void.

92. [*Release of offenders on bond.*] *Deleted by Bom. 67 of 1953, s. 2.*

Demand of security for good behaviour.

93. (*1*) Whenever a [1][Presidency Magistrate specially empowered by the State Government in this behalf in Greater Bombay, and elsewhere, a District Magistrate or Sub-Divisional Magistrate] receive information that any person within the local limits of his jurisdiction habitually commits or attempts to commit, or abets the commission of, an offence punishable under this Act, such Magistrate may require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the magistrate may direct.

(*2*) The provisions of the Code of Criminal Procedure, 1898, shall in so far as they are applicable apply to any proceedings under sub-section (*1*) as if the bond referred to therein were a bond required to be executed under section 110 of the said Code.

V of 1898.

Execution of bonds in respect of minors.

94. If any person in respect of whom a bond is ordered to be executed under [2][sections 91 and 93] is a minor, the bond shall be executed by his guardian.

Punishment for vexatious search, seizure or arrest.

95. Any officer or person exercising powers under this Act who—

(*a*) maliciously enters or searches or causes to be entered or searched, any building or house or similar dwelling place; or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act; or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person; or

(*d*) in any other way maliciously exceeds or abuses his lawful powers,

shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Punishment for vexatious delay.

96. Any officer or person who vexatiously and unnecessarily delays forwarding to the officer in charge of the nearest police station any person arrested or article seized under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

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[1] These words were substituted for the original by Bom. 21 of 1954, s. 3, Second Schedule.
[2] These words and figures were substituted for words "the last three preceding sections" by Bom. 67 of 1953, s. 3.

Punishment for abetment for escape of persons arrested.

97. Any officer or person exercising powers under this Act, who—

(*a*) unlawfully releases any person arrested under this Act, or

(*b*) abets the escape of any person arrested under this Act, or

(*c*) abets the commission of any offence against this Act, and

any other officer of the [1][Government] or of a local authority who abets the commission of any offence against this Act.

shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Things liable to confiscation.

98. (*1*) Whenever any offence punishable under this Act has been committed,—

(*a*) any intoxicant, hemp, mhowra flowers, molasses, materials, still, utensil, implement or apparatus in respect of which the offence has been committed,

(*b*) wherein the case of an offence involving illegal possession, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses other than those in respect of which an offence under this Act has been committed, the entire stock of such intoxicant, hemp, mhowra flowers or molasses,

(*c*) where, in the case of an offence of illegal import, export or transport, the offender has attempted to import, export or transport any intoxicant, hemp, mhowra flowers or molasses, in contravention of the provisions of this Act, rule, regulation or order or in breach of a condition of a licence, permit, pass or authorization, the whole quantity of such intoxicant, hemp, mhowra flowers or molasses which he has attempted to import, export or transport,

(*d*) where in the case of an offence of illegal sale, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses, other than that in respect of which an offence has been committed, the whole of such other intoxicant, hemp, mhowra flowers or molasses,

shall be confiscated by the order of the Court.

(*2*) Any receptacle, package or covering in which any of the articles liable to confiscation under sub-section (*1*) is found and the other contents of such receptacle, package or covering and the animals, carts, vessels or other conveyances used in, carrying any such article shall like-wise be liable to confiscation by the order of the Court.

Return of things liable to confiscation to *bona fide* owners.

99. When during the trial of a case for an offence under this Act the court decides that anything is liable to confiscation under the foregoing section, the court may, after hearing the person, if any, claiming any right thereto and the evidence, if any. which he produces in support of his claim, order confiscation, or in the case of any article other than an intoxicant, hemp, mhowra flowers or molasses give the owner an option to pay fine as the court deems fit in lieu of confiscation :

Provided that no animal, cart, vessel, vehicle or other conveyance shall be confiscated if the owner thereof satisfies the court that he had exercised due care in preventing the commission of the offence.

Procedure in confiscation.

100. When an offence under this Act has been committed and the offender is not known or cannot be found or when anytning liable to confiscation under this Act is found or seized, the [2][Director], Collector or any other officer authorized by the [3][State] Government in this behalf may make an inquiry and if after such inquiry is satisfied that an offence has been committed, may order the thing found to be confiscated :

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Provided that no such order shall be made before the expiry of one month from the date of seizure, or without hearing any person who can claim any right thereto and the evidence, if any, which he produces in support of his claim.

Power of Collector etc. to order sale or destruction of articles liable to confiscation.

101. If the thing in question is liable to speedy and natural decay, or if the [1][Director], Collector, [2][Court] or the officer authorized by the [3][State] Government in this behalf is of opinion that the sale would be for the benefit of the owner, the [1][Director], Collector, [2][Court] or the officer may at any time direct it to be sold and the provisions of section 99 or 100 shall apply so far as may be to the net proceeds of the sale:

Provided that in the case of anything liable to speedy and natural decay the officer concerned may order it to be destroyed if in his opinion such order is expedient in the circumstances of the case.

Forfeiture of any publication containing advertisement or matter [7][soliciting] use of intoxicants.

102. (*1*) Where any newspaper, news-sheet, book, leaflet, booklet or other publication wherever printed or published appears to the [3][State] Government to contain any advertisement or matter [4]* soliciting the use of, or offering any intoxicant or hemp, the [3][State] Government may, by notification in the *Official Gazette*, declare every copy of such newspaper, news-sheet, book, leaflet, booklet or other publication whether printed or published in the [5][State] or outside to be forfeited to [6][the State Government], and thereupon any Police Officer may seize the same wherever found in the [5][State]. Any Magistrate may by warrant authorize any Police Officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such newspaper, news-sheet, book, leaflet, booklet, or other publication may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898.

V of 1898.

(*2*) The declaration of the [3][State] Government under this section shall be final and shall not be questioned in any Civil or Criminal Court.

Presumption as to commission of offences in certain cases.

103. (*1*) In prosecutions under any of the provisions of this Act, it shall be presumed without further evidence, until the contrary is proved, that the accused person has committed an offence under this Act in respect of any intoxicant, hemp, mhowra flowers or molasses or any still, untensil, implement or apparatus, whatsoever for the manufacture of any intoxicant as are ordinarily used in the manufacture of such intoxicant [8][or any materials which have undergone any process towards the manufacture of any intoxicant or from which an intoxicant has been manufactured,] for the possession of which he is unable to account satisfactorily.

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[1] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
[2] This word was substituted for the word "Magistrate" by Bom. 21 of 1954, s. 3, Second Schedule.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] The word "commending" was deleted by Bom. 26 of 1952, s. 39.
[5] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[6] These words were substituted for the words "His Majesty," *ibid.*
[7] This word was substituted for the word "commending" by Bom. 26 of 1952, s. 39.
[8] These words were inserted by Bom. 20 of 1955, s. 8.

(*2*) In prosecutions under section 67 [1][or 67-1A] it shall be presumed without further evidence until the contrary is proved that the accused person has committed an offence under that section in respect of any denatured spirit [2][or denatured spirituous preparation] which has been or attempted to be altered in contravention of the provisions of section 21 [3][or 21A, as the case may be].

Report of certain registered medical officers as evidence.

[4][**103A.** Any document purporting to be a report under the hand of any registered medical officer in any hospital or dispensary maintained by the State Government or a local authority or any other registered medical officer authorised by the State Government in this behalf, in respect of any person examined by him, or upon any matter or thing duly submitted to him for examination or analysis and report, for the purposes of any prosecution under this Act, may be used as evidence in such prosecution:

Provided that the Court shall, at the request of the accused, summon the medical officer who made the report for the purpose of being cross-examined.]

Compounding of offences.

104. (*1*) The [5][State] Government may sanction the acceptance from any person whose licence, permit, pass or authorization is liable to be cancelled or suspended under the provisions of this Act or who is reasonably suspected of having committed an offence under section [6][69, 70, 77, 82 or] 108, of a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be; and in all cases in which any property other than the intoxicant, hemp, mhowra flowers or molasses has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by the [5][State] Government or such officer as the [5][State] Government may authorize in this behalf:

Provided that where a person who is reasonably suspected of having committed an offence under section [6][69, 70 or] 108 is not the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or a person acting with his express or implied permission on his behalf, the sum of money which may be accepted from such person by way of composition shall not exceed five hundred rupees.

(*2*) On the payment by such person of such sum of money, or such value or both as the case may be, such person, if in custody, shall be set at liberty and the property seized may be released and if any proceedings shall have been instituted against such person in any Criminal Court, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

Bombay Probation of Offenders Act, 1938, and section 562 of Code of Criminal Procedure, 1898, not to apply to persons convicted of offence under this Act.

[7][**104A.** Nothing in the Bombay Probation of Offenders Act, 1938, or section 562 of the Code of Criminal Procedure, 1898, shall apply to any person convicted of any offence under this Act.] Bom. XIX of 1938. V of 1898.

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[1] The word, figures and letter " or 67-1A " were inserted by Bom. 36 of 1954, s. 13(*i*).
[2] These words were inserted *ibid.*, s. 13(*ii*).
[3] These words, figures and letter were inserted *ibid.*, s. 13(*iii*).
[4] Section 103A was inserted by Bom. 64 of 1954, s. 2.
[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[6] These figures and word were inserted by Bom. 26 of 1952, s. 40 (1) & (2)
[7] Section 104A was inserted by Bom. 67 of 1953, s. 4.

CHAPTER VIII.

EXCISE DUTIES.

105. [1][(*1*)] An excise duty or countervailing duty, as the case may be, at such rate or rates as the [2][State] Government shall direct may be imposed either generally or for any specified local area on— Excise duties.

(*a*) any alcoholic liquor for human consumption;

(*b*) any intoxicating drug,

(*c*) any medicinal or toilet preparation containing alcohol,

(*d*) any other excisable article,

when imported, exported, transported, possessed, manufactured or sold [3][in or from the State, as the case may be]:

XXXII of 1934. VIII of 1878. Provided that duty shall not be so imposed on any article which has been imported into [4][the territory of India] and was liable on such importation to duty under the Indian Tariff Act, 1934, or the Sea Customs Act, 1878.

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[1] Section 105 was renumbered as sub-section (*1*) by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Provincial" *ibid.*
[3] These words were substituted for the words and figures "in accordance with the proivisions contained in Chapter IV of this Act" by Bom. 26 of 1952, s. 41.
[4] These words were substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.

Explanation.—Duty may be imposed under this section at different rates according to the places to which an excisable article is to be removed for consumption or according to varying strengths or quality of such article.

[1][(*2*) After the commencement of the Constitution a duty on any medicinal or toilet preparation containing alcohol shall only be leviable under this section if it was lawfully levied immediately before such commencement and shall only be leviable until provision to the contrary is made by Parliament by law.]

Manner of levying excise duties.

106. Subject to any regulations to regulate the time, place and manner of payment made by the [2][Director] in this behalf, the duties referred to in section 105 may be levied in one or more of the following ways :—

(*a*) in the case of an excisable article imported—

(*i*) by payment either in the [3][State] at the time of its import or in the [3][State] or territory of export at the time of its export, or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(*b*) in the case of an excisable article exported by payment in the [3][State] at the time of its export, or in the [3][State] or territory of import ;

(*c*) in the case of excisable articles transported—

(*i*) by payment in the district from which they are transported, or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(*d*) in the case of spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Act—

(*i*) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued from a warehouse established or licensed under this Act, or

(*ii*) by a rate charged in accordance with such sale of equivalents calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the [4][State] Government may prescribe ;

(*e*) in the case of intoxicating drugs manufactured [5][in the State] by payment upon the quantity produced or manufactured or issued from a warehouse established or licensed under this Act :

Provided that where payment is made upon issue for sale from a warehouse established or licensed under this Act, such payment shall be at the rate of the duty in force at the date of issue from the warehouse :

Provided further that where one and the same person is permitted—

(*i*) to manufacture or import and to sell, or

(*ii*) to manufacture and export,

country liquor or any intoxicant, such duty may be levied in consideration of the joint privileges granted, as the Collector deems fit.

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[1]Sub-section (2) was inserted by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
[3]This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[4]This word was substituted for the word "Provincial", *ibid.*
[5] These words were substituted for the words "in pursuance of a licence granted under this Act" by Bom. 26 of 1952, s. 42.

Power to exempt, remit or refund excise duty.

107. Subject to any rules or orders made by the [1][State] Government in this behalf, the [2][Director] may remit or refund wholly or partially [3][any fee in respect of any privilege, licence, permit, pass or authorization granted under this Act or duty on toddy producing trees or excise duty or fee] leviable under this Act on any intoxicant [4][hemp, mhowra flowers or molasses] from any person, or institution, or a class of persons or institutions or exempt such person or institution from the payment of such duty or fee.]

Declaration of stock of articles mentioned in section 24A; maintenance of accounts and submission of returns.

[5][**107A.** Every person who imports or manufactures any of the articles mentioned in section 24A shall—

(*a*) submit to the Collector within such period and in such form, as may be prescribed, a declaration of the quantity of such article in his possession on the importation or manufacture of the said article, as the case may be;

(*b*) maintain accounts of the articles in such form and submit such returns as may be prescribed.

Power to obtain information and to search and seize excisable articles.

107B. (*1*) The Collector or any officer empowered by the State Government in this behalf may, subject to such conditions as may be prescribed,

(*a*) by order require any person liable to pay any excise duty or fee under this Chapter to furnish him with any information or to produce before him any accounts or other documents concerning any excisable article as may be necessary for the purposes of this Chapter;

(*b*) inspect at all reasonable hours the accounts or other documents relating to the stocks of any excisable article imported or manufactured or stored in respect of which such duty or fee has been paid or is payable and any place where such article is manufactured or stored;

(*c*) for reasons to be recorded in writing, enter any such place where he knows or has reason to believe that any excisable article in respect of which such duty or fee has not been paid is being imported or manufactured or stored and search for the same and seize any stocks of such article found therein and detain the same until such time as proof of payment of such duty or fee is produced or such further time as may be necessary for taking action under section 98, 99 or 100 or for prosecuting for an offence under section 108.

(*2*) Whoever—

(*a*) fails to furnish any information or produce any accounts or other documents in compliance with an order made under clause (*a*) of sub-section (*1*), or

(*b*) obstructs any officer making an inspection, entry, a search or a seizure under clause (*b*) or clause (*c*) of sub-section (*1*),

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
[3] These words were substituted for the words "excise duty and fee" by Bom. 26 of 1952, s. 43 (*1*).
[4] These words were substituted for the words "or hemp", *ibid*, s. 43 (*2*).
[5] Sections 107A and 107B were inserted, *ibid*, s. 44.

Penalty for import of intoxicant, etc., without payment of duty.

108. Whoever imports, exports, transports, possesses, [1][sells] or manufactures any intoxicant or hemp without the payment of duty or fee provided for under this Act shall, on conviction, [2][in addition to being required to pay such duty or fee, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or the amount of such duty or fee, whichever is greater, or with both].

Duty on tapping of toddy trees.

109. (*1*) For every toddy producing tree from which toddy is drawn there shall, if the [3][State] Government so directs, be levied for any period during which such tree is tapped or licensed to be tapped, such duty as the [3][State] Government may from time to time direct.

(*2*) Every licence for drawing toddy granted under this Act shall specify in addition to any other particulars prescribed under the provisions of this Act or rules or regulations—

(*a*) the number, description and situation of the trees to be tapped,

(*b*) the amount of duty to be levied in respect of each tree,

(*c*) the instalments, if any, in which and the period at which the said duty shall be leviable.

Duty by whom payable.

110. The duty on toddy producing trees shall be leviable primarily from the person holding the licence to draw toddy and in default by him or if the trees are tapped without licence, from the owner of the trees.

Owner of trees entitled to assistance for duty paid.

111. When the duty on toddy producing trees is levied from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the licence under the provisions of the law for the time being in force relating to the recovery by superior holders of their dues from their tenants.

Privilege of drawing toddy from trees belonging to Government.

112. The privilege of drawing toddy from trees the right to which vests in the [3][State] Government may be disposed of annually by auction or otherwise on such terms as the Collector deems fit.

Rules for levy of duty on opium, etc.

113. (*1*) The [3][State] Government may make rules for all or any of the following matters,—

(*a*) the levy of duty on the import of opium,

(*b*) the sale of opium and the farm of duties leviable on the sale of opium by retail,

(*c*) the levy of fees for the warehousing of opium imported :

Provided that no duty shall be levied under any such rule on any opium imported and on which a duty is imposed by or under the law relating to sea or land customs for the time being in force or under the Dangerous Drugs Act, 1930.

II of 1930.

(*2*) The [3][State] Government may also make rules for the disposal of any opium, if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

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[1] This word was inserted by Bom. 26 of 1952, s. 45 (*1*).

[2] This portion was substituted for the words beginning with the words " be liable to the same punishment " and ending with the words " of this Act ", *ibid*, s. 45 (2).

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Recovery of duties, etc.

114. All duties, taxes, fines (except fines imposed by a Court) and fees leviable under any of the foregoing provisions of this Act or of any licence, permit, pass or authorization granted under it, may be recovered from any person liable to pay the same or from his surety, if any, as if they were arrears of land revenue.

CHAPTER IX.

Powers and Duties of Officers and Procedure.

Magistrate's power to impose higher fine.

115. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of an offence under section 65, 66, 68 or 69. V of 1898.

Procedure to be followed by Magistrates.

116. In all trials for offences under this Act, the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1898, for the trial of summary cases in which an appeal lies. V of 1898.

Investigations, arrests, searches, etc., how to be made.

117. Save as otherwise expressly provided in this Act, all investigations, arrests, detentions in custody and searches shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898 : V of 1898.

Provided that [1]* * * * no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the place searched is situated.

Offences to be cognizable.

118. (*1*) In the absence of any provisions to the contrary in this Act and save as provided in sub-section (*2*) of this section, the provision of the Code of Criminal Procedure, 1898, with respect to cognizable offences shall apply to offences under this Act. V of 1898.

(*2*) In the Greater Bombay the provisions of the City of Bombay Police Act, 1902, with respect to cognizable offences shall apply to offences under this Act : Bom. IV of 1902.

Provided that the powers with which an officer in charge of a Police Station or a Police Officer making an investigation are invested under section 66 of the City of Bombay Police Act, 1902, shall not be exercised in relation to the search of any house or building to which the public have no right of access except with the permission to be recorded in writing of an officer not lower in rank than an officer in-charge of a Police Station. Bom. IV of 1902.

Offences to be non-bailable.

119. Offences under sections 65 and 68 shall be non-bailable.

Powers of entry and inspection.

120. The [2][Director], Collector, or any Prohibition Officer duly empowered in this behalf by the [3][State] Government or any Police Officer may—

(*a*) enter at any time by day or by night, any house or building, or enclosed space in which he has reason to believe that any intoxicant, opium, hemp, mhowra flowers or molasses liable to confiscation under this Act are manufactured, kept or concealed or that any still, utensils, implement or apparatus is used, kept or concealed for the purpose of manufacturing any such articles ;

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[1] The words beginning with the words "in any local area" and ending with the words "State Government" were deleted by Bom. 26 of 1952, s. 46.

[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*b*) in case of resistance, break open any door and remove any other obstacle to his entry into any such warehouse, shop, premises, house, building, or enclosed space ;

(*c*) seize any intoxicant, hemp, mhowra flowers or molasses and any material used in the manufacture of any intoxicant and any still, utensil, implement or apparatus and any other thing which he has reason to believe to be liable to confiscation under this Act ; and

(*d*) detain and search and if he thinks proper, arrest any person whom he has reason to believe to be guilty of any offence under this Act.

Power to open packages, etc.

121. (*1*) Any Prohibition Officer duly empowered in this behalf by the [1][State] Government or any Police Officer may open any package and examine any goods and may stop or search for any intoxicant, hemp, mhowra flowers or molasses any vessel, vehicle or other means of conveyance [2][and may seize any intoxicant, hemp, mhowra flowers, molasses or any other thing liable to confiscation or forfeiture under this Act or any other law for the time being in force relating to excise revenue found while making such search].

(*2*) The unloading and carrying of goods, the bringing of them to the place appointed under sub-section (*3*) for examination, the opening and repacking of them, where such operations are necessary to be made under this section and the removing of goods to and placing of them in the place appointed under sub-section (*3*) for deposit, shall be performed by or at the expense of the owner of such goods.

(*3*) The owner of goods or the persons in charge of the goods shall, if so required by any officer conducting the search, take the goods to a place appointed by the District Magistrate, or Commissioner of Police, Bombay, for the purpose of examination or deposit.

(*4*) The expenses incurred under sub-section (*2*) for the purpose of removing goods to and the placing of them in the place appointed under sub-section (*3*) may be recovered as an arrear of land revenue.

Powers to require production of licences.

122. (*1*) The [3][Director] or Collector or any Prohibition Officer duly empowered in this behalf or any Police Officer may—

(*a*) require a licensed manufacturer or vendor or a person in the employ of such manufacturer or vendor or acting with his express or implied permission on his behalf to produce the licence, permit, pass or authorization issued under this Act under which he carries on the manufacture, storage or sale of any intoxicant, hemp, mhowra flowers or molasses or taps toddy producing trees or draws toddy therefrom ;

(*b*) enter and inspect, at any time by day or by night, any land on which toddy producing trees licensed for tapping are growing or toddy is drawn from such trees, or any warehouse, shop or premises in which any licensed manufacturer or vendor manufactures, stores or sells any intoxicant, hemp, mhowra flowers or molasses or examines, tests, measures and weighs any stock of any such articles.

(*2*) If such officer finds that the holder of a licence, permit, pass or authorization issued under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf wilfully does or omits to do anything which is an offence under this Act, such officer may seize any intoxicant, hemp, mhowra flowers or molasses or any material in respect of which the offence is committed and send a report to his official superior for such action under this Act as he deems fit.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] These words were added by Bom. 26 of 1952, s. 47.
[3] This word was substituted for the word " Commissioner " by Bom. 28 of 1950, Sch.

Arrest of offenders and seizure of contraband articles.

123. (*1*) Any Prohibition officer authorized by the [1][State] Government in this behalf or any Police Officer may—

(*a*) arrest without warrant any person whom he has reason to believe to be guilty of an offence under this Act;

(*b*) seize and detain any intoxicant, hemp, mhowra flowers or molasses or other articles which he has reason to believe to be liable to confiscation or forfeiture under this Act.

(*2*) Any Prohibition Officer authorized by the [1][State] Government under this section who arrests any person under sub-clause (*a*), or seizes and detains any article under sub-clause (*b*), of sub-section (*1*) shall forward such person or article, as the case may be, without unnecessary delay to the officer in charge of the nearest Police Station.

Power to obtain information.

124. (*1*) The [2][Director], or Collector or any Prohibition Officer specially empowered in this behalf by the [1][State] Government or a Police Officer may, by order require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp, mhowra flowers or molasses as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Power to seize intoxicants, etc.

125. The [2][Director], Collector or any Prohibition Officer duly empowered in this behalf or any Police Officer may—

(*a*) seize in any open place, or in transit any intoxicant, hemp, mhowra flowers or molasses or any other thing which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to excise revenue;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this Act or any other law for the time being in force relating to excise revenue, and if such person has any intoxicant, hemp, mhowra flowers, molasses or any other thing in his possession, arrest him

Arrest without warrant.

126. The [2][Director], Collector or any Prohibition Officer duly empowered in this behalf by the [1][State] Government or any Police Officer may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duties under this Act or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

Arrest of offenders failing to give names.

127. (*1*) When any person who in the presence of the [2][Director], Collector or any Prohibition Officer not below such rank as the [1][State] Government may determine, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer, in order that his name or residence may be ascertained.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties, to appear before [1][a Magistrate having jurisdiction] when so required:

Provided that if such person is not resident in [2][India], the bond shall be secured by a surety or sureties residing in [2][India].

(*3*) If the true name and residence of such person is not ascertained within twenty-four hours from the time of the arrest, or if he fails to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Issue of warrants.

128. (*1*) The [3][Director], Collector or any Prohibition Officer duly empowered in this behalf [4][or in Greater Bombay, a Deputy Commissioner of Police or a Superintendent of Police in charge of a Division] or a Magistrate or a District Superintendent of Police or an Assistant or Deputy Superintendent of Police specially empowered by the [5][State] Government in this behalf may issue a warrant—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence under this Act or any other law relating to the excise revenue for the time being in force;

(*b*) for the search, whether by day or by night, of any building, vehicle or place in which he has reason to believe that any intoxicant, hemp, opium mhowra flowers or molasses are manufactured or sold or stored or that any toddy is drawn, contrary to the provisions of this Act or that any intoxicant, hemp or opium or other thing liable to confiscation or forfeiture under this Act or any other law for the time being in force relating to the excise revenue is kept or concealed [6][and for the seizure of such intoxicant, hemp, opium, mhowra flowers, molasses or such other thing found in such building, vehicle or place].

(*2*) All warrants issued under sub-section (*1*) shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a Police Officer or a Prohibition Officer duly empowered in this behalf or if the officer issuing the warrant deems fit, by any other person.

V of 1898.

Certain provisions to apply to denatured spirituous preparation.

[7][**128A.** The provisions of clause (*a*) of sub-section (*1*) of section 98 and of sections 99, 104, 120, 121, 123, 124, 125 and 128 shall, so far as may be, apply to denatured spirituous preparation which is altered or attempted to be altered contrary to the provisions of this Act.]

Prohibition Officers may be empowered to investigate offences.

129. (*1*) The [5][State] Government may empower any Prohibition Officer to investigate offences under this Act.

(*2*) An officer empowered under sub-section (*1*) shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer-in-charge of a Police Station for the investigation of cognizable offences.

V of 1898.

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[1] These words were substituted for the words "a Magistrate" by Bom. 21 of 1954, s. 3, Second Schedule.

[2] This word was substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

[4] These words were inserted by Bom 26 of 1952, s. 48 (*1*).

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] These words were inserted by Bom. 26 of 1952, s. 48 (*2*).

[7] Section 128A was inserted by Bom. 36 of 1954, s. 14.

(*3*) Any Prohibition Officer to whom such officer is subordinate may, during the course of the investigation, take over the investigation himself or direct any other Prohibition Officer duly empowered to conduct the same. The officer in conducting the investigation shall have the same powers under sub-sections (*1*) and (*2*), as if he were the Prohibition Officer appointed for the area or for the purpose of investigating the said offence.

(*4*) If the Prohibition Officer conducting the investigation is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond with or without sureties, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence, and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report.

(*5*) The powers of an officer empowered under this section shall be subject to such other modifications or restrictions as the [1][State] Government may deem fit.

Arrested person and things seized to be sent to officer-in-charge of Police Station.

130. Every person arrested and thing seized by a Prohibition Officer under this Act shall be sent to the officer-in-charge of the nearest Police Station.

Bail by Prohibition Officer.

131. (*1*) Any Prohibition Officer empowered to investigate an offence under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without a warrant for an offence under this Act. V of 1898.

(*2*) When any person has been arrested under section 126 a Prohibition Officer empowered to investigate offence under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Articles seized.

132. When anything has been seized by a Prohibition Officer other than the Collector or [2][Director] under the provisions of this Act, or has been sent so him in accordance with the provisions of this Act, such officer, after such inquiry as may be deemed necessary,—

(*a*) if it appears that such thing is required as evidence in the case of any person arrested, shall forward it to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken,

(*b*) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send it with a full report of the particulars of seizure to the Collector,

(*c*) if no offence appears to have been committed shall return it to the person from whose possession it was taken.

Duty of officials of all Departments and local authorities to assist.

133. Every officer of the [3][Government] and every officer or servant of a local authority shall be legally bound to assist any police officer or person authorized in this behalf in carrying out the provisions of this Act.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
[3] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

Offences to be reported.

134. Every village officer or servant useful to Government and every officer of any other Department of the [1][State] Government and any officer or servant of a local authority [2][and the sarpanch of a village panchayat constituted under the Bombay Village Panchayats Act, 1933,]shall be bound to give immediate information at the nearest Police Station or section or to any officer or person authorized in this behalf of any breach of any of the provisions of this Act which may come to their knowledge; and all such officers and servants shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches about which they may have knowledge or which they may have reason to believe or about or likely to be committed.

Bom. VI of 1933.

Landlords and others to give information.

135. Every person who occupies any land or building or who is a landlord of an estate residing in the village on or in which there has been any tapping for toddy or manufacture of any liquor or intoxicating drug not authorized by a permit or a licence issued under this Act, and every owner of a vessel or vehicle in which liquor or intoxicating drug is manufactured, without such permit or licence, shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to an Officer of the Police as soon as such tapping or manufacture shall come to his knowledge.

136. [*Power to arrest and make orders detaining or restricting movements or actions of persons.*] *Deleted by Bom. 26 of 1952, s. 50.*

CHAPTER X.

Appeals and Revision.

Appeals.

137. (*1*) All orders passed by any Prohibition Officer other than the Collector or [3][Director] under this Act, shall be appealable to the Collector at any time within sixty days from the date of the order complained of.

(*2*) All orders passed by the Collector and [3][Director] shall be appealable to the [3][Director] and the [1][State] Government respectively at any time within ninety days from the date of the order complained of:

Provided that no appeal shall lie against an order passed by the [3][Director] on appeal.

(*3*) Subject to the foregoing provisions the rules which the [1][State] Government may make in this behalf shall apply to appeals under this section.

Revision.

138. The [1][State] Government may call for and examine the record of any proceedings before any Prohibition Officer including those relating to the grant or refusal of a licence, permit, pass or authorization granted or applied for under this Act, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of, such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words and figures were inserted by Bom. 26 of 1952, s. 49.
[3] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

CHAPTER XI.

MISCELLANEOUS.

General powers of [1][State] Government in respect of licences, etc.

139. Notwithstanding anything contained in this Act or the rules made thereunder, the [1][State] Government may, by general or special order,—

(*a*) prohibit the grant of any kind of licences, permits, passes or authorizations throughout the [2][State] or in any area ;

(*b*) regulate the import, export, transport, possession, sale, purchase, consumption, or use of any intoxicant, hemp, mhowra flowers, molasses or any article which is likely to be used for the manufacture of an intoxicant with or without licence, permit, pass or authorization throughout the [2][State] or within the limits of any local area subject to such conditions and for such periods as it deems fit ;

(*c*) exempt any person or institution or any class of persons or institutions from the observance of all or any of the provisions of this Act, or any rule or regulation or order made thereunder ;

(*d*) exempt any intoxicant or class of intoxicants from all or any of the provisions of this Act ;

(*e*) prescribe the maximum number of licences, permits, passes or authorizations of any kind which may be granted in any area or to any class of persons ;

(*f*) prescribe the number of places at which any intoxicant specified in such order, hemp, mhowra flowers or molasses may be sold in any area, the location of such places in any area, the days and hours during which such places may or may not be kept open, the number of such places in respect of which licences for sale may be granted and the number of such places which may be managed by the Excise Department ;

(*g*) direct that no licence, permit, pass or authorization of the kind specified in such order shall be granted without the previous approval of the [1][State] Government or also direct any additions or alterations to be made to or in the conditions subject to which under any other provisions of this Act, such licence, permit, pass or authorization can be granted ;

(*h*) prescribe the maximum quantity of any intoxicant, hemp, mhowra flowers or molasses which may be sold in any area or at any place ;

(*i*) prescribe the maximum number of toddy producing trees for tapping which or for drawing toddy from which licence may be granted ;

(*j*) prescribe the procedure to be followed before granting any licence ;

(*k*) direct that before granting licences, auctions may be held, tenders called for or offers received and that licences shall be granted to persons whose bids, tenders or offers are accepted by the Collector ;

(*l*) specify the persons or class of persons to whom licences may not be granted and in cases in which auctions are held, the person or classes of persons who may or may not be permitted to offer bids at such auctions ;

(*m*) direct that licences of the kind specified in such order shall be granted to persons specified in such order ; and

(*n*) issue such other instructions in any matter pertaining to the grant or otherwise of licences, permits, passes or authorizations under this Act, as the [1][State] Government may deem proper.

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[1] This word was substituted for the word " Provincal " by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word " Province ", *ibid.*

Power of [1][State] Government to prohibit, regulate or control consumption or use of intoxicants, etc., in public place.

140. The [1][State] Government may, by general or special order, prohibit, regulate or control, subject to such conditions as may be specified in the order, the consumption or use of any intoxicant or hemp, in any public place.

Employment of additional police.

141. (*1*) If the [1][State] Government is satisfied that the inhabitants of any area are concerned in the commission or abetment of any of the offences punishable under sections 65 to 69, the [1][State] Government may, by notification in the *Official Gazette*, direct the employment of additional police for such period as it thinks fit.

(*2*) The cost of such additional police shall, if the [1][State] Government so directs, be either in whole or in part defrayed by a tax imposed on the persons herein below mentioned, or by a rate assessed on the property of such persons, or both by a tax and by a rate so imposed and assessed, and charged—

(*a*) either generally on all persons who are inhabitants of the local area to which such notification applies; or

(*b*) specially on any particular section or sections or class or classes of such persons, and the [1][State] Government may direct the proportions in which such tax or rate shall be charged.

Explanation.—For the purposes of this section "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents or revenue direct from rayats or occupiers in such area, notwithstanding that they do not actually reside therein.

(*3*) It shall be lawful for the [1][State] Government to extend, for a term not exceeding in any case five years, the period for the payment of such tax or rate beyond the period for which such additional police are actually employed.

Bom. XXII of 1951.

[2][(*4*) The provisions of sub-sections (*4*) to (*7*) of section 50 of the Bombay Police Act, 1951, shall apply *mutatis mutandis* to the recovery of such tax or rate.]

Closing of shops.

142. (*1*) It shall be lawful for the Collector by notice in writing to the licensee to require that any place in which any intoxicant or hemp is sold by retail shall be closed at such time or for such period as he may deem necessary, if in the opinion of the Collector such closing is necessary in the interest of public peace.

(*2*) If a riot or unlawful assembly is imminent or occurring, it shall be lawful for [3][any Executive Magistrate] or Police Officer who is present to direct that such place shall be closed and kept closed for such period as he thinks fit.

(*3*) Any order given under this section shall be final.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This sub-section was substituted for the original sub-sections (*4*) and (*5*) by Bom. 64 of 1954, s. 3.
[3] These words were substituted for the words "any Magistrate" by Bom. 21 of 1954, Second Schedule.

Power of [1][State] Government to make rules.

143. (*1*) The [1][State] Government may make rules for the purpose of carrying out the provisions of this Act or any other law for the time being in force relating to excise revenues.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, the [1][State] Government may make rules,—

(*a*) regulating the delegation of any power by the [2][Director], by Collector or by any other Prohibition Officer;

(*b*) regulating the import, export, transport, [3][collection,] sale, purchase, consumption, use or possession of any intoxicant or hemp, mhowra flowers or molasses;

(*c*) regulating the manufacture of any intoxicant;

(*d*) regulating the cultivation and collection of hemp;

(*e*) regulating the tapping of toddy producing trees and drawing of toddy therefrom;

(*f*) regulating the grant, suspension or cancellation of licences, permits, passes or authorizations for the import, export, transport, [4][collection, sale, purchase,] possession, manufacture, consumption, use or cultivation of any of the above articles mentioned in [5][clause (*b*) and for the matters specified in clause (*e*)];

(*g*) regulating the periods and localities for which the licences may be granted for the wholesale or retail vend of any of the above articles mentioned in clause (*b*);

(*h*) providing for the consulting of public opinion and prescribing the procedure to be followed and the matters to be ascertained before any licence, permit, pass or authorization for the vend, consumption or use of any of the above articles mentioned in clause (*b*) is granted to any person or in any locality;

(*i*) prohibiting and regulating the employment by the licence-holder of any person or classes of persons to assist him in his business in any capacity whatsoever;

(*j*) prescribing the manner in which the juice from a cocoanut, brab, date or any kind of palm tree is to be treated for the purpose of preventing fermentation;

(*k*) prescribing the persons or classes of persons to whom any intoxicant, or hemp may or may not be sold or who may be allowed to sell, purchase or use;

(*l*) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises and the meeting and remaining of persons of bad character on such premises;

(*m*) regulating the grant of expenses to persons called on to give information in investigations in respect of offences under this Act, and of compensation to persons charged with offences punishable under this Act and acquitted;

(*n*) regulating the printing, publishing or otherwise displaying or distributing any advertisement or other matter [6]* soliciting the use of, or offering any intoxicant [7][or] hemp or calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act or to commit a breach or evade the provisions of any rule or order made thereunder or the conditions of any licence, permit, pass or authorization issued thereunder;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch
[3] This word was inserted by Bom. 26 of 1952, s. 51 (*1*).
[4] These words were inserted, *ibid.*, s. 51 (*2*).
[5] These words, brackets and letters were substituted for the words, brackets, and letters "clauses (*b*) and (*c*)", *ibid.*
[6] The word "commending" was deleted, *ibid.*, s. 51 (*3*).
[7] This word was inserted, *ibid.*

(*o*) regulating within the [1][State] the circulation, distribution or sale of newspaper, news-sheet, book, leaflet, booklet, or other publication [2][printed and published outside the State] containing any advertisement or matter which [3]* * * solicits the use of, or offers any intoxicant, or hemp [4]* * *;

(*p*) imposing restrictions and conditions on buyers of intoxicant including provision for compelling them to sign entries pertaining to the purchase of intoxicant by them;

(*q*) prescribing the specifications and test in respect of the purity of molasses;

(*r*) regulating the taking of samples of molasses;

(*s*) prescribing the powers, functions and duties of Prohibition Officers, Committees and Medical Boards and the fees and allowances payable to the members of the Committees and Medical Boards.

[5][(*t*) prescribing the procedure regarding the work of the Board of Experts;

(*u*) prescribing the fees payable in respect of any privilege, licence, permit, pass or authorization granted or issued under this Act;

(*v*) prescribing the period within which and the form in which a declaration under section 107A shall be submitted, and the form in which account shall be maintained.]

(*3*) The power to make rules under this section shall be subject to the condition of previous publication:

Provided that any such rules may be made without previous publication, if the [6][State] Government considers that they should be brought into force at once.

[7][Director]'s powers to make regulations.

144. (*1*) The [7][Director] may make regulations, not inconsistent with the provisions of this Act or rules,—

(*a*) regulating, as the case may be, the manufacture, supply or storage of any intoxicant or hemp, mhowra flowers or molasses including—

(*i*) the erection, inspection, supervision, management and control of any place for the manufacture, supply or storage of such article, and the fittings, implements and apparatus to be maintained therein;

(*ii*) the cultivation of hemp and the collection of the spontaneous growth of such plant and the preparation of any intoxicating drug from such growth and the storage and supply of such hemp or intoxicating drug;

(*iii*) the storage and supply of opium;

(*iv*) the tapping of toddy producing trees and the drawing of toddy from such trees;

(*v*) the bottling of liquor;

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[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words "whether printed or published" by Bom. 26 of 1952, s. 51 (*4*).
[3] The words "is prescribed or which commends," were deleted, *ibid.*
[4] The words "to be forfeited to the State Government" were deleted, *ibid.*
[5] Clauses (*t*) to (*v*) were substituted for the original clause (*t*), *ibid.*, s. 51 (*5*).
[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[7] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Schedule.

(*b*) regulating the deposit of any intoxicant, hemp, opium, mhowra flowers or molasses in a warehouse and the removal of such articles from any such warehouse or from any distillery or brewery;

(*c*) prescribing in the case of an intoxicant or opium the way in which the duty on such article shall be levied;

(*d*) prescribing the scale of fees or the manner of fixing the fees payable in respect [1]* * * *of any storage of any intoxicant, hemp, opium, mhowra flowers or molasses;

(*e*) regulating the time, place and manner of payment of any duty or fees;

(*f*) prescribing the restrictions under which and the conditions on which any licence, permit, pass or authorization may be granted, including—

(*i*) the prohibition of the admixture with any intoxicant of any substance deemed to be noxious or objectionable;

[2][(*ii*) the fixing of the strength, price or quantity in excess of or below which any intoxicant or mhowra flowers shall not be sold or supplied and the quantity in excess of which denatured spirit or molasses shall not be possessed or sold and the prescription of a standard of quality for any intoxicant, mhowra flowers or molasses;]

(*iii*) the prohibition of sale of any intoxicant or hemp except for cash;

(*iv*) the prescription of the days and hours during which any licensed premises may or may not be kept open and provisions for the closure of such premises on special occasions;

(*v*) the prescription of the nature of the premises on which any intoxicant may be sold and the notices to be exposed at such premises;

(*vi*) the prescription of the accounts to be maintained and the returns to be submitted by licence holders or permit holders;

(*vii*) the regulation or prohibition of the transfer of licences;

(*viii*) the writing of the names and addresses and the taking of signatures of purchasers in the register of sale of any intoxicant, hemp, opium or mhowra flowers;

(*g*) (*i*) declaring the processes by which spirits shall be denatured in particular areas, or for particular purposes;

(*ii*) for causing such spirits to be denatured through the agency or under the supervision of the [3][Government officers];

(*iii*) for ascertaining whether such spirits have been denatured;

(*h*) providing for the destruction or other disposal of any intoxicant declared to be unfit for use;

(*i*) regulating the disposal of confiscated or forfeited articles;

(*j*) prescribing the occasions on which special orders may be granted for the sale by retail of quantities of liquor or intoxicating drugs, or opium other than those which are prescribed in any notification issued under this Act and the conditions on which such sales may be made;

(*k*) prescribing the amount of security to be deposited by the holder of the licence, permit, pass or authorization for the performance of the condtions for the same;

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[1] The words beginning with the words "of any privilege" and ending with the words "authorization or" were deleted by Bom. 26 of 1952, s. 52 (*1*).

[2] Clause (*f*) (*ii*) was substituted for the original, *ibid*, s. 52 (*2*).

[3] These words were substituted for the words "servants of the Crown" by the Adaptation of Laws Order, 1950.

(*l*) providing for the maintenance by the holders of licences, permits, passes or authorizations of the registers of sales, purchases, possession, consumption or use and the particulars to be entered in the register;

(*m*) regarding any other matter which the [1][State] Government may, by notification in the *Official Gazette*, direct him to prescribe for the purposes of carrying out the provisions of this Act.

(*2*) The regulations made under this section shall be published in the *Official Gazette*.

Officers and persons acting under this Act to be public servants.

145. All officers and persons empowered to exercise any powers or to perform any functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Bar of Proceedings.

146. No suit or proceeding shall lie against the [2][Government] or against any Prohibition, Police, or other officers or against any person empowered to exercise powers or to perform functions under this Act, for anything in good faith done or purporting to be done under this Act.

Provisions of this Act not to apply to import or export across customs frontier.

147. For removal of doubts it is hereby declared that nothing in this Act shall be deemed to apply to any intoxicant or other article in respect of its import or export across the customs frontiers [3]* * * *

Repeal and amendments.

148. (*1*) The enactments specified in Schedule I are hereby repealed to the extent specified in the fourth column thereof and those specified in Schedule II are hereby amended to the extent specified in the fourth column thereof.

(*2*) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect—

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act,

(*ii*) any legal proceeding or remedy in respect of any right, title, interest, obligation or liability or anything done or suffered before the commencement of this Act and any such proceeding shall be continued and disposed of, as if this Act was not passed,

Bom. V of 1878.

(*iii*) the levy of any duties under section 29-A of the Bombay Abkari Act, 1878, and the recovery of any duties or fees leviable under any other provisions of the Acts hereby repealed, and all such duties or fees shall be levied or recovered, as the case may be, as if this Act was not passed.

(*3*) Any appointment, notification, notice, order, rule or form, made, or issued under any of the enactments repealed by this Act shall continue to be in force and deemed to have been made, granted or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act, unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act, notwithstanding the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorized in the enactments repealed and notwithstanding also that such notification, notice, order, rule or form was made or issued in a different form or name.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Crown", *ibid.*
[3] The words "as defined by the Dominion Government" were deleted by Bom. 26 of 1952, s. 53.

(*4*) Any licence, permit, pass, authorization or permission granted or issued under any of the enactments repealed by this Act shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act.

SCHEDULE I.

(*See* SECTION 148.)

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
1878 ..	I	The Opium Act, 1878, in its Application to the Province of Bombay.	The whole.
1878 ..	V	The Bombay Abkari Act, 1878 ..	All the provisions except section 29-A.
1947 ..	XXX	The Bombay Molasses Act, 1947 ..	The whole.

SCHEDULE II.

(*See* SECTION 148.)

Year. 1	No. 2	Short title. 3	Extent of amendments. 4
1890 ..	IV	The Bombay District Police Act, 1890	1. Section 46—
			(*a*) in sub-section (*4*), for clauses (ii) and (iii), the following clauses shall be substituted, namely:— "(ii) section 65 or 68 of the Bombay Prohibition Act, 1949"; Bom. XXV of 1949.
			(*b*) in sub-section (*6*) for the words and figures "under the Bombay Abkari Act, 1878 or the Opium Act, 1878," the words and figures "under the Bombay Prohibition Act, 1949" shall be substituted. Bom. XXV of 1949.
			2. Section 61 AA shall be deleted.
1902 ..	IV	The City of Bombay Police Act, 1902 ..	1. In section 27—
			(*a*) in sub-section (*2*), for the words and figures "under the Bombay Abkari Act, 1878 or the Opium Act, 1878," the words and figures "under the Bombay Prohibition Act, 1949" shall be substituted; Bom. XXV of 1949.
			(*b*) in sub-section (*2-A*) for clauses (ii) and (iii), the following clause shall be substituted, namely:— "(ii) section 65 or 68 of the Bombay Prohibition Act, 1949." Bom. XXV of 1949.
			2. Section 122A shall be deleted.